

A LITTLER PRESENTATION

2025 Maine Legal and Legislative Update + Primer on Gambling in the Workplace

Human Resources Association of Southern Maine

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Presented By



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Feel free to reach out to me with questions after this or if you want a copy of the slides

Agenda

- 2025 Legislative Update
 - New laws employers need to know
- Gambling in the Workplace
 - Why does it matter?
 - What should employers do to handle it?



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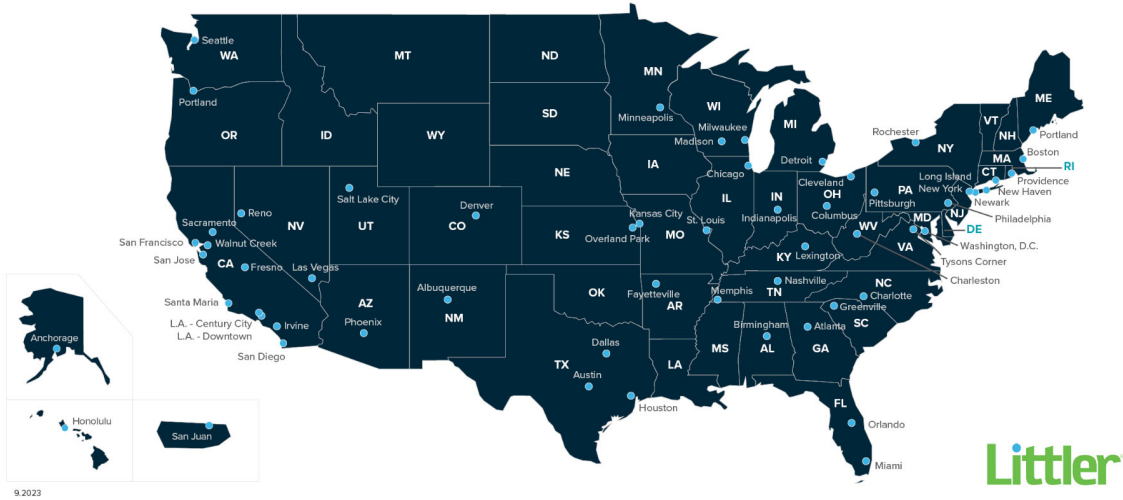
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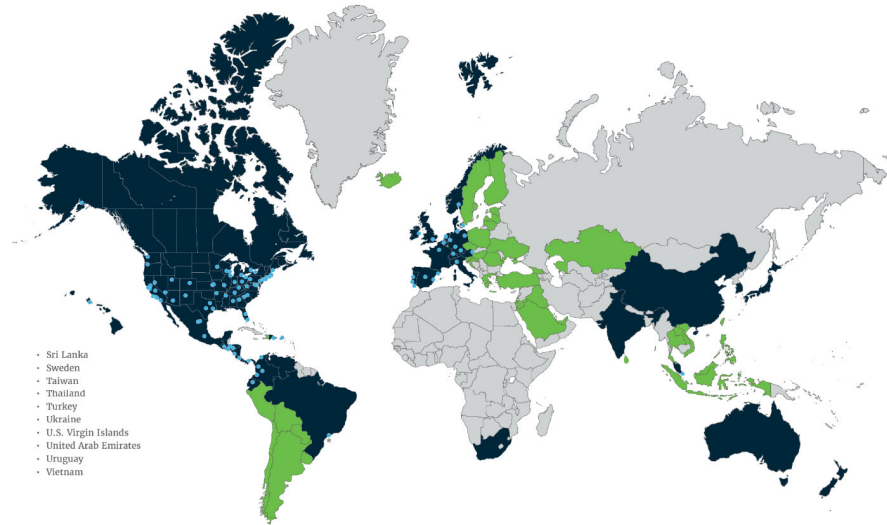
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Trends at the Maine Human Rights Commission

- MHRC received 660 new complaints in FY 2024, down slightly from the prior year's 683
- Of new complaints filed, **66% were based on employment**, 19% were based on housing, 15% were based on public accommodations, 3% were based on education
- Investigators only wrote reports for 154 cases
- "Reasonable grounds" to believe unlawful discrimination occurred in **20% of cases**
- At the end of FY 2024, 726 cases remained pending (*peak in last 10 years was 2021 with 863 cases pending*)

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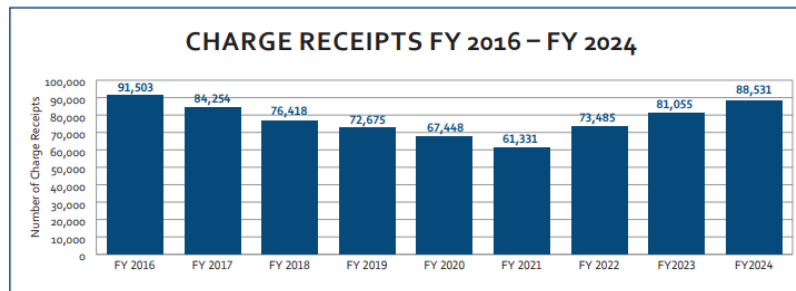
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First I thought it might be useful to look at where we are in Maine with respect to employment-related discrimination and retaliation case filings.

Trends at the EEOC

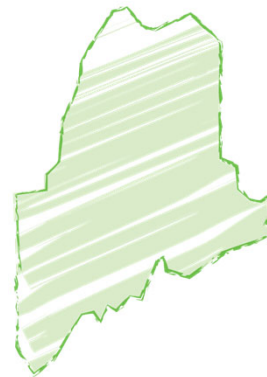
- While the MHRC saw a slight decline, the EEOC saw an increase in 2024
- EEOC received 88,531 new charges, a 9.2% increase from 2023
- Merits found in 18% of charges



What is interesting is that the EEOC is trending upward since covid while the MHRC is trending downwards.

2025 Maine Legislative Update

- 500+ votes
- Approx. 400 bills carried over
- Gov. Mills holding 61 bills until January
 - Has 3 days to act after legislature returns
- No reforms to Paid Family and Medical Leave program
 - On 8/27/25, Maine Supreme Court ruled that forcing employers to pay premiums for Q1 of 2025 until private plans were approved was constitutional



PFML Reminder!

- **Beginning October 1 of each year**, employers are required to update the number of covered employees to determine the premium rate for the next calendar year (2026)

What do I need to do?

- When you, or your payroll processor, files the third quarter wage report you will be asked if there were at least 20 weeks with 15 or more employees between October 1, 2024, to September 30, 2025.
- The updated rate will apply to the following calendar year (2026)
- If you use a payroll processor, inform them of your employee count to ensure correct reporting. Employers that have been approved for a private plan substitution are also required to update their employee count.

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Although there were no major legislative changes to the PFML program this session, now is a good time to remind you all that October 1 marks a new year for employee headcount according to the Maine DOL. Double check your headcount and notify your payroll processors

LD 598 – An Act to Require Minimum Pay for Reporting to Work

- Enacted 6/24/25; **Effective 9/24/25**
- Applies to employers with 10+ employees
- Any day an employee reports to work at the request of an employer and the employer cancels or reduces the number of hours in an employee's scheduled shift, the employee must be paid the **lesser of**
 - Two hours of pay at regularly hourly rate or
 - The total pay for the shift for which the employee was schedule
- Not applicable for salaried exempt employees



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Maine has enacted a new law requiring pay for employees whose scheduled shift is canceled or reduced under certain circumstances. This law applies to employers with at least ten employees for more than 120 days in a calendar year, and excludes employees working in a seasonal industry.

Under the new law, if an employee reports to work at an employer's request and the employer cancels this working time or reduces the number of hours in that employee's scheduled shift, the employee must be paid the lesser of:

- Two hours of pay at their regular rate; or
- Total pay for the shift as it was initially scheduled.

However, the law includes exceptions, clarifying that these pay provisions do not apply when an employee is unable to work or is not required to work due to:

- Adverse weather conditions;
- A natural disaster or civil emergency;
- The employee's illness or medical condition; or
- The employee's workplace injury.

Relatedly, the law clarifies that employers are not required to give reporting time pay to an employee if the employer made a documented, good-faith effort to notify them not to report to work. If the employee shows up to work because the employer's attempt to notify them was unsuccessful or the employer was prevented from providing notice, the employee must be allowed to perform whatever duties are assigned to them, and if none can be assigned to them, then the employer must provide reporting time pay as otherwise required under the new law.

Employers in Maine may wish to revise their written policies and practices to ensure compliance with the pay requirement before September 24, 2025. Employers may consider training managers to understand the new law and its application to hourly workers.

LD 55 – An Act to Amend the Law Governing the Accrual of Earned Paid Leave

- Signed into law on 7/1/25; **effective 9/24/25**
- **Prior law** permitted employees to earn up to 40 hours of paid leave annually (1 hour for every 40 hours worked)
 - Any amount rolled over counted toward the 40-hour cap
 - **Example** if employee rolls over 40 hours of unused accrued EPL from one year to the next, the employee will not accrue any additional hours.
 - if they carried over 20 hours from the previous year, they could only accrue 20 hours in the new year.
As a result, an employee's earned paid leave balance would never exceed 40 hours in a single year.

This is the old way we determined earned paid leave where the max was 40 hours no matter what....but under the new law...

LD 55 – An Act to Amend the Law Governing the Accrual of Earned Paid Leave (continued)

BUT LD 55 DRAMATICALLY CHANGES THINGS

- Now carryover will **not** affect an employee's ability to accrue up to an additional 40 hours in the new year.
- This means that an employee's earned paid leave balance may reach 80 hours (40-hour carryover plus a new 40-hour annual accrual) - ***twice the current 40-hour cap*** - in the second (or later) year of employment (unless an employer establishes a higher accrual cap).
- Although earned paid leave balances may be higher, the current regulations allow employers to limit the amount of leave employees can **use** in a year to 40 hours.
 - *What is your policy? Time to revisit!*



Interestingly, though, LB 55 directs the state Department of Labor to enforce the new provisions “within existing resources using strategic enforcement.” Therefore, it is unclear at this time whether further rulemaking will be initiated by the Department in the coming months to amend the current regulations and clarify the impact of these changes.

LD 1898 – An Act to Correct Outdated References Regarding the Maine Human Rights

- Enacted 6/11/25; effective 9/24/25
- Amends the Maine Human Rights Act to prohibit employment discrimination based on seeking or receiving a protection from abuse order
- *Good reminder to update anti-discrimination policies*



LD 385 - An Act to Protect Communications by Alleged Victims Regarding Sexual Assault, Sexual Harassment, Sexual Misconduct, Cyberbullying or Discrimination from Litigation

- Enacted 6/22/25; effective 9/24/25
- Amends Main's anti-SLAPP statute to protect communications made by alleged victims of sexual assault, sexual harassment, sexual misconduct, cyberbullying, or discrimination (*including employment discrimination*) based on the person's:
 - communication in a legislative, executive, judicial, administrative or other governmental proceeding;
 - communication on an issue under consideration or review in a legislative, executive, judicial, administrative or other governmental proceeding;
 - exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association on a matter of public concern; and
 - written or oral statement made in connection with a discrimination complaint pursuant to the Maine Human Rights Act or any written or oral statement made in connection with a complaint pursuant to federal Title IX. (*think MHRC Complaints*)

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The state's anti-SLAPP statute, the Maine Uniform Public Expression Protection Act ("MUPEPA" or "Act"), provides a legal framework to protect individuals from "strategic lawsuits against public participation," or "SLAPPs."

MUPEPA creates a procedural mechanism for defendants to file a special motion for expedited relief within 60 days of being served with a complaint, automatically staying most proceedings until resolution of the motion. MUPEPA requires courts to dismiss claims with prejudice when the moving party establishes that the Act applies, the responding party fails to establish that the Act does not apply, and either the responding party fails to make a *prima facie* case or the moving party demonstrates that the responding party failed to state a claim or that no

genuine issue of material fact exists. MUPEPA also mandates the award of attorney's fees and costs to prevailing moving parties, imposes a stay during appeals, and explicitly requires that the Act be broadly construed to protect constitutional rights.

This amendment extends MUPEPA's protections to circumstances in which a victim communicates, without malice, regarding an incident of sexual assault, sexual harassment, sexual misconduct, cyberbullying or discrimination, and the victim has or at any time had a reasonable basis to file a complaint concerning the incident (whether the complaint was filed or not). For the purposes of this new provision, "discrimination" includes employment discrimination prohibited by the Maine Human Rights Act.

LD 61 – An Act to Regulate Employer Surveillance to Protect Workers

- Enacted, but currently being held by Governor Mills
 - Must sign or veto in January (or let become law without signature)
- Applies to all private and public employers regardless of size
- Prohibits “employer surveillance” unless employer notifies employee before use of surveillance (must also notify applicants during interview process)
- “Employer Surveillance” = “the monitoring of an employee by an employer through the use of an electronic device or system, including but not limited to the use of a computer, telephone, wire or radio or an electromagnetic, photoelectronic or photo optical system.”
- "Employer surveillance" does **not** include surveillance cameras for security or safety purposes or the use of GPS tracking on vehicles owned by the employer but operated by the employee

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- An employer may not use audiovisual monitoring in an employee's residence or personal vehicle or on the employee's property as a means of employer surveillance.
- Employee may decline request to install data collection or transmission apps on personal devices
- Provides a private right of actions for employees
- DOL will have to do rulemaking

2026 Watchlist

- **LD 799 – An Act to Report Gender Wage Gaps**
 - Employees with 250+ employees would have to submit annual gender pay gap reports to the DOL
- **LD 599 – An Act to Raise the Salary Threshold for Overtime Pay**
 - Would raise OT threshold to \$58,656 annually
- **LD 60 – An Act to Allow Employees to Request Flexible Work Schedules**
 - Seeks to formally give employees the right to request flexible work arrangements, including alternative hours or remote work.
- **LD 54 – An Act to Require Employer to Disclose Pay Ranges**
 - Employers with 10+ employees would have to include pay ranges in all job postings

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Four major bills were carried over from the 2025 legislative session and remain on the Appropriations Table. This means they passed, but were not funded. They will definitely be focused on when the legislature returns in January

LD 799 – An Act to Report Gender Wage Gaps

Sponsored by Rep. Roeder of Bangor, LD 799 would require large employers—those with at least one employee in Maine and at least 250 employees nationwide—to submit annual gender pay gap reports to the Department of Labor. Reports would include the number of male, female, and nonbinary employees, along with the median hourly equivalent wage for each group. Employers would be required to publish the gender wage gap ratio and retain wage data for at least a year. Penalties up to \$1,000 per violation

LD 599 - This bill, sponsored by Sen. Tipping of Penobscot, aims to tie Maine's overtime exemption rules more directly to federal standards. LD 599 would require salaried employees to earn at least \$58,656 annually—or meet thresholds based on national wage percentiles—to be exempt from overtime pay laws.

LD 60 – An Act to Allow Employees to Request Flexible Work Schedules

Also sponsored by Rep. Roeder, LD 60 seeks to formally give employees the right to request flexible work arrangements, including alternative hours or remote work. While the bill does

not mandate approval of such requests, it would require employers to consider them in good faith and provide written responses outlining the reason for any denial.

The bill contains carve-outs for employer operations, including financial burdens, inability to reorganize work, or insufficient work during proposed hours. It also includes anti-retaliation provisions and penalties for violations ranging from \$100 to \$500.

LD 54, - would require employers with 10 or more employees to include a prospective pay range in all job postings. It also mandates that employers provide current employees with their position's pay range upon request and maintain pay history records for each employee throughout their tenure and for three years post-employment.

Portland Minimum Wage Hike Possible

- On 8/25/25, Portland City Council voted 5-4 to send minimum wage increase to voters in November
- If approved, the Portland minimum wage will increase:
 - \$15.50 to \$16.75/hr on 1/1/26
 - \$17.75 on 1/1/27
 - \$19.00 on 1/1/28 and annual cost-of-living increase thereafter
 - *Maine state minimum wage is \$14.65/hr*

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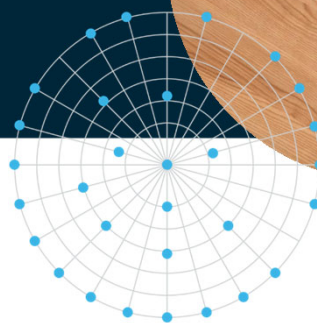
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Lastly, Portland's city council just voted to let voters decide whether to raise the minimum wage. This was defeated a few years ago on the ballot, but it is back again.



Questions?

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Before we switch topics, I'll pause here for nay questions...

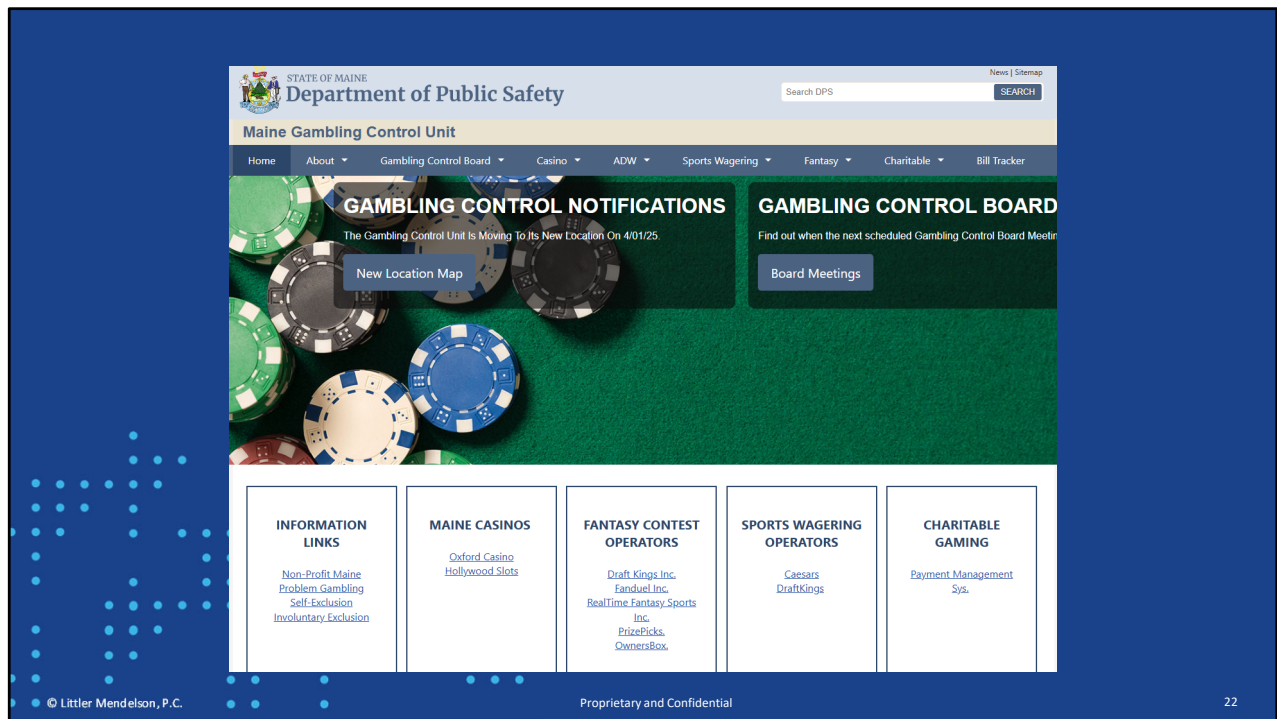
Gambling In The Workplace



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(Steve) I am thrilled to combine my two worlds here as an employment lawyer and the current Chair of the Maine Gambling Control Board



In 15 years Maine has gone from virtually no legalized gambling to having two casinos, charitable gaming, fantasy sports, advanced deposit wagering (online horse betting) and sports betting. The Gambling Control Unit is part of the Department of Public Safety. The Unit oversees charitable, fantasy, and sports betting. The Board is a 5-member board appointed by the governor and confirmed by the senate that oversees casinos and ADW.

Gambling Defined

- Every state has slight variations on the language, but when planning sweepstakes, contests, or raffles if these three elements are present, it is gambling:
 - Consideration
 - Chance
 - Prize



(Steve)

Maine's Definition of Gambling (Me. St. T. 17 § 1831(5))

“Game of Chance” means a game, contest, scheme or device in which:

- A. A person stakes or risks something of value for the opportunity to win something of value;
- B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and
- C. Chance enters as an element that influences the outcome in a manner that cannot be eliminated through the application of skill.

(Steve) Chance and prize are easy. Consideration in Maine can be tricky. It is highly fact dependent and it is always best to consult with counsel if you are planning a contest or raffle. Court cases have found that something as simple as providing an email address can constitute consideration.

Game of Chance vs. Game of Skill

Where do these games fall on the spectrum?

CHANCE  SKILL

Roulette – Blackjack – Poker – Sports Betting – Free Throw Shooting Contest

(Steve) And when we talk about games of chance vs. games of skill it is a spectrum. Some states have a predominant factor test meaning whichever element predominates wins, but in Maine it is a game of chance if chance cannot be eliminated through skill

Rapid Legalization of Sports Betting

Murphy v. NCAA, 138 S. Ct. 1461 (2018)

- **Main Question Presented:**

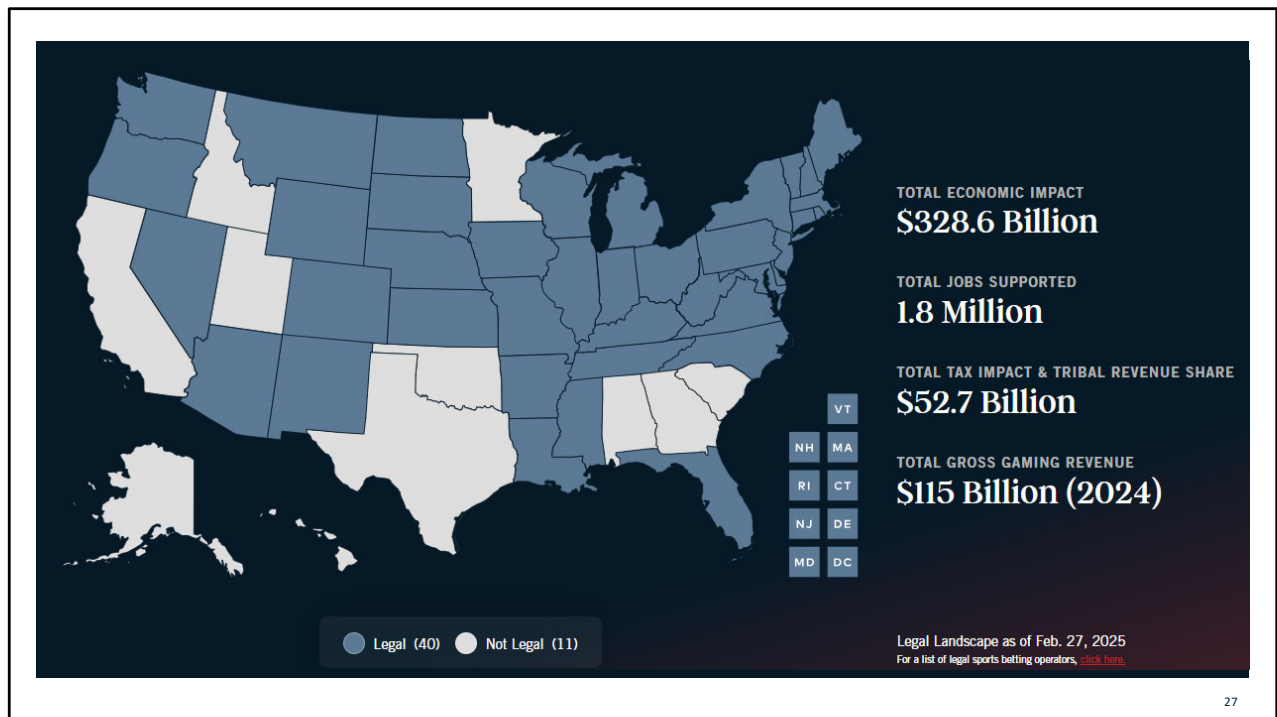
- Does the Professional and Amateur Sports Protection Act of 1992, 28 U.S.C. §§ 3701-3704 (“PASPA”) impermissibly commandeer the regulatory power of states?

- Five sports leagues (NFL, NHL, NBA, MLB, and NCAA) sued to enjoin the New Jersey law, which the state defended by arguing that PASPA was unconstitutional under the anti-commandeering doctrine.

- **THE FEDERAL GOVERNMENT WAS NOT INVOLVED!**

- 6-3 in favor of New Jersey (Alito, Kennedy, Roberts, Thomas, Kagan, and Breyer in majority; Sotomayer and Ginsburg dissented)

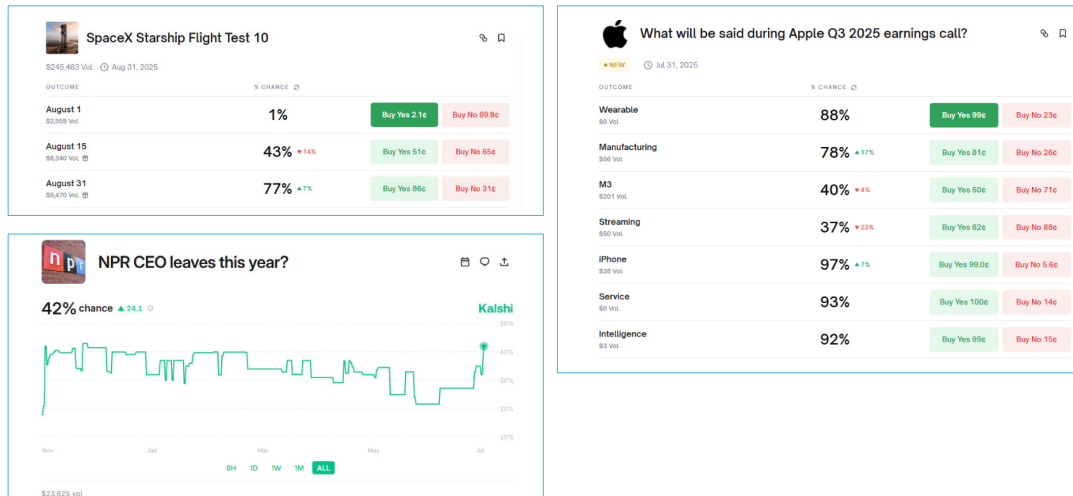
(Steve) It seems like old news, but we are less than 7 years since the Supreme Court struck down the federal prohibition on sports betting.



(Steve) Since the fall of PASPA in 2018, 40 states have now legalized sports betting. Here in Maine legal sports betting did not launch until November of 2023. There are currently two mobile operators and one retail operator.

This means anyone can place a legal wager on a phone, tablet, or computer anytime, anywhere. No need to go to a physical sportsbook. For employers, this means betting might be happening on company devices right now on company time. So.... What do you do about it?

“Prediction Markets” Make Mobile Gambling Legal Everywhere



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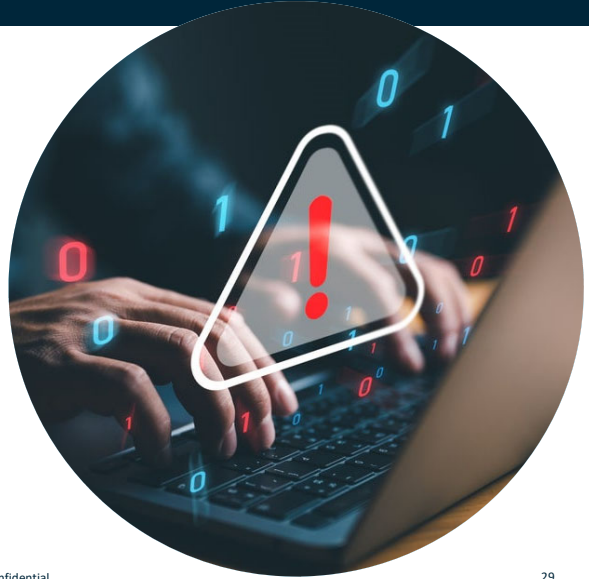
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(Steve) If that were not enough, 2025 has seen an explosion in Prediction Markets which allow anyone to wager on anything at anytime from anywhere. This can include protected information that your employees have access to. Just as an example, employees can go wager on when the next flight text will be. Think about all the employees who may have access to that information. Nearly \$250,000 traded on this. Or would words will be said during Apple’s earnings call. ...or will a company get a new CEO

These are largely unregulated trading platforms with multi-billion dollar valuations.

Employers Beware...

- Update Internet and mobile device use policies
- Educate employees about legality of sports betting
- Determine policies to handle gambling addiction
- Prepare for employees to bet on sports at work
- Brace for reduced productivity



So that means your employees are likely wagering at work right now potentially about information they have access to at work. That means, you need to set expectations and policies to employees are on notice of what is and is not permitted.

How Is Your Company Culture Defined?

- Does your company/office permit or even promote some form of gambling already?
- Remember: Consideration + Chance + Prize



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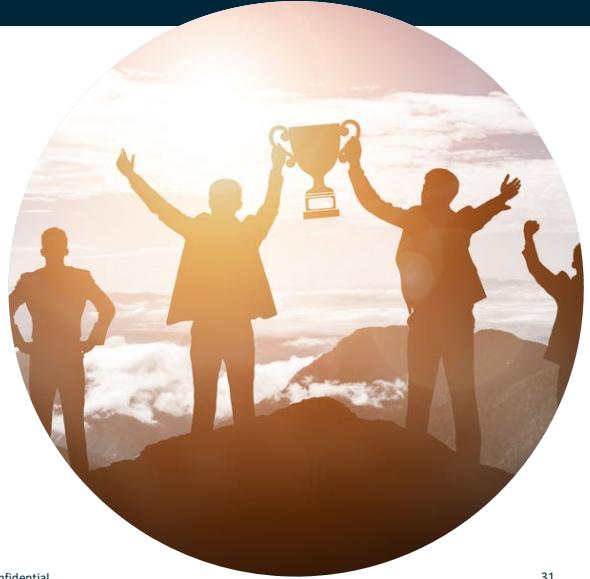
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So the first step is assessing your corporate culture. Is gambling encouraged right now? I can pretty much guarantee that there is someone in every single workplace in America who gambles in some form, but might not even know it. In the most basic sense, Gambling = Consideration, Chance and a Prize. So Super Bowl squares and March Madness brackets for money are gambling and may violate state and federal laws. How about fantasy sports? How many offices sponsor leagues among employees? If money or other prizes are involved, it is likely gambling. There are various exceptions in many states so I don't want to scare anyone, because these types of games in the workplace can be good for business.

Pros

- Builds camaraderie
- Welcome distraction from daily grind
- Boosts morale
- Increases engagement
- Can break down barriers
- FUN!



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I have a lot of fond memories from a prior job huddling around a TV with everyone during a big game or friendly trash talk during a fantasy draft, but there are some real concerns to keep in mind and I hope to provide some useful policies and strategies for dealing with gambling in the workplace

Cons

- **Loss of productivity**
 - Bureau of Labor Statistics estimates that each worker following basketball loses **\$1,801.30 in lost productivity** during March Madness
 - 2025 survey by The Action Network estimates that March Madness led to **\$20 billion in lost productivity** in the U.S.
 - The study found that the average fan spends **2.4 hours per day** checking scores, updating brackets, or live-streaming games. And for 23% of employees, that number jumps to **4+ hours per day**
 - 2025 UKG survey found **22.6 million employees** planned to miss work the day after the Super Bowl
- It is going to happen, so many employers try to flip the script and use it as a reward. Relaxed dress code before a big game, putting TVs in common areas, catering lunch, etc. Set clear expectations and apply policies uniformly!

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When managing employee sick time requests, employers generally have two initial considerations: (1) Does the employee have sick time available? (2) Does the employer enforce its sick time policy uniformly and treat all employees equally in terms of their time off requests. Employers might be able to curb these effects by creating morale-building opportunities. Employers might, for example, plan a themed celebration on the day after a big game.

More Cons...

- **Strain on relationships**

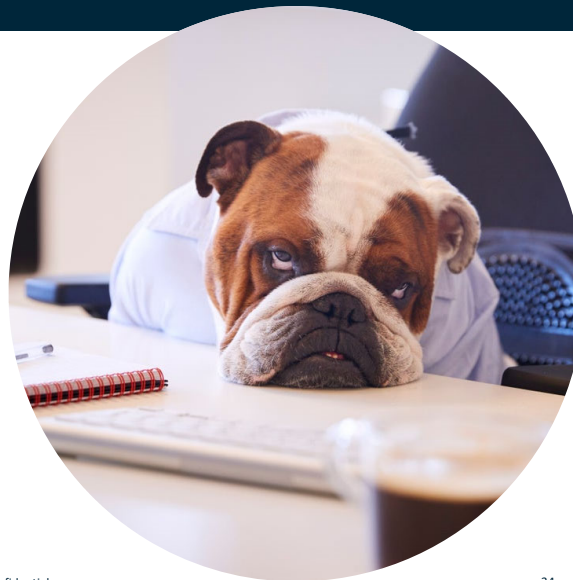
- Harassment, disparate treatment, or discrimination can pop up in the most unexpected places.
- What if a supervisor lashes out at an employee after losing a bet or not getting a specific player in the fantasy draft?
- What about the older employee who feels that he or she has to pick up the slack of younger workers who are clustered around the break room during a game?
- Men excluding women from the office poker game?
- Be prepared to deal with employee interactions where money is at stake and tempers can run high.

One place I worked at previously did not allow staff to participate in brackets or squares. It created a palpable tension between attorneys and staff. I never understood the policy and it was always ripe for some sort of disparate treatment claim. The communal aspects of this type of gambling should be highlighted. Offer free games and give out company apparel as prizes. I know many companies will make a charitable donation in the winner's name to a charity of the winner's choice. Try to include everyone. It can't hurt to remind employees of complaint procedures so HR can nip any issues in the bud from the get go.

More Cons...

- **Not everyone cares about sports**

- Be mindful that management does not force anyone to participate
- Don't play favorites for those that do participate
- Don't allow teasing or any sort of harassment toward those who do not want to participate



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Do not pressure anyone to participate! Especially if money is involved as some employees do not have that disposable income.

And Even More Cons...

- **Criminal Prosecution** (extreme cases)
 - NJ man ran an office “survivor” pool on football games worth \$837,000 in 2009 with more than 8,000 entrants.
 - Prosecuted under vague state law
 - A person is guilty of promoting gambling, according to the law, when he or she “(a)cepts or receives money or other property, pursuant to an agreement or understanding with any person whereby he participates or will participate in the proceeds of gambling activity.”
 - Pleaded guilty to avoid jail time
 - All assets (including home) seized



Addiction Problems



- **Addiction is real**

- 10 million Americans live with a gambling addiction
 - **1 in 20 college students** meet the criteria for compulsive gambling
- Office brackets and squares can be a trigger
- Revisit policies for employees to report issues
- Make sure HR is trained in handling addiction-related issues just like drugs and alcohol
 - Requests for payday advances, absenteeism, lost productivity, violence all could be signs

Addiction and Risks to Employers



- Addiction can lead good employees to make bad choices
 - 2016: Wall Street exec accused of running \$40 million Ponzi scheme to pay for sports betting habit
 - 2013: Bookkeeper for family business in Kansas forges checks with \$2.6 million to fuel gambling addiction
 - 2010: Connecticut paralegal found guilty of mail fraud after plotting to steal \$1.7 million from her employer to pay off credit card balance
- 2013 Marquet International Report: gambling is a significant factor in 25% of business fraud cases
 - Consider regular audits of accounting/financial personnel

The Law Views Gambling Addiction Differently

- ADA excludes “compulsive gambling” from definition of disability. 42 § U.S.C. 12211(b)(2) **as does the Maine Human Rights Act**
- Employers cannot be liable for discriminating against or otherwise failing to accommodate employees with compulsive gambling problem BUT
 - Compulsive gambling may be coexistent with another condition that is covered by the ADA such as psychiatric or drug/alcohol addictive disorders.
 - 2015 Harvard study - 96% of people with disordered gambling have at least one other psychiatric diagnosis that would be covered by ADA.
 - Reaffirmed by 2021 research in the *Journal of Public Health* finding that 94% of people with gambling problems will have at least one cooccurring mental health or addiction disorder (including alcohol and nicotine dependence, depression, anxiety, and obsessive-compulsive disorder).

Employer will often ignore gambling addiction because it is not ADA protected, but it gets thorny when it is coexistent with a protected condition

Other Considerations To Keep in Mind

- Civil and Criminal Liability for running office pools/sweepstakes
 - Many states require sweepstakes or raffle registrations (FL and NY have a \$5k prize threshold)
 - **Maine – \$2,500 threshold for raffles**
 - Noncash prize valued \$2,500 to \$10k – must register with Gambling Control Unit and verify charitable purpose
 - No employees under 18 may sell raffle tickets
 - Exceptions for charitable/religious orgs and volunteer fire departments
 - **“Social Gambling” exception in Maine**
 - Office pools across state lines = potential Wire Act implications?

Employers also run the risk of civil liability arising out of a workplace sports pool. Because the pool is illegal, an employee who suffers an adverse employment action (such as a demotion or termination) after voicing opposition to employer organization or sponsorship of the workplace pool could, theoretically, attempt to assert a whistleblower claim. Of course, the employee ultimately would bear the burden of proving the causal connection between the “blowing of the whistle” and the challenged adverse action.

Real Life Example

- **Title VII**

- 2001 case out of the Northern District of Alabama
 - Employee fired for operating weekly football pool.
 - Claimed management was aware of and tolerated pool, but targeted him because of his race and gender
 - Employer granted SJ because employee could not identify similarly situated employee treated more favorably
- Good reminder to develop consistent policies and apply them uniformly

Policies Matter!

- Misuse of company devices and Internet
- Negative performance issues on computer networks
- Expose company data to breaches
- Distractions can impede safety
- *Develop sound written policies, put employees on notice, and apply uniformly*



If you have never considered gambling when putting together handbooks, now is a great time to do so. I've reviewed handbooks for a few professional sports teams and leagues, so gambling is front and center. But many other employers overlook it. You want to make sure your employees know what is and is not allowed and then apply the policies uniformly.

Do You Have an Internet Use Policy?

- Does your company block access to certain sites?
 - Porn
 - Social media
 - **Gambling (Sports Betting)**
 - Just offshore sites or American casinos too?
 - Sports gambling news sites?
- Are employees on notice of monitoring/no expectation of privacy?
- Video streaming allowed?
- Aside from blocking access to certain sites, monitoring is very difficult
- In most states, compelling employee passwords is not permitted (at least for private sites)
- Setting forth expectations from day one will help eliminate problems down the road
 - Makes discipline easier should an issue arise



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One of the biggest challenges faced by employers today is establishing and enforcing realistic (and legal) limitations on employees' business use of their own computers, tablets, smartphones, e-mail, social networking accounts, scanners and other forms of technology. By becoming keenly aware of the risks and threats, employers can implement proactive strategies that will protect your company from exposure.

Almost all gambling industry related news sites are blocked for me at work. So try to be flexible based on the needs of your employees.

You can't block every site so make sure your employees know what is expected. One potential example: COMPANY permits personal usage of the Internet through COMPANY systems provided such use does not violate any COMPANY policy or applicable law, is not in pursuit of personal gain, and does not interfere with job responsibilities. Use that is excessive, violates the law or COMPANY policy, or that is in pursuit of personal gain is prohibited. Inappropriate content is prohibited and may lead to disciplinary action up to and including termination. Employees are prohibited from downloading computer games, shareware, or gambling applications."

Mobile Device Policies

- *How can employers limit desktop and mobile/handheld devices to only company business?*
- No one-size-fits-all policy. . . Important questions:
 - Bring your own device or company-issued?
 - Which employees will be covered by the policy?
 - What devices will be permitted under the policy?
 - How do employees communicate with customers, other employees and management?
 - How will the employer reimburse employees for expenses in compliance with applicable tax laws and wage and hour laws?
 - What happens when employees quit or are fired?
 - What scope of mobile management will be deployed?
 - What steps should the employer take to ensure that employees' devices are secure?
 - What steps should the employer take to ensure that the company's confidential information is being protected?
 - Does the employer need to update its confidentiality agreements, loss control policies, timekeeping policies, or any other policies?

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Most gambling occurs on mobile devices now and that can present glaring weak spots for security breaches and misuse of company resources. It is also a safety issue as you don't want drivers or employees in safety-sensitive positions looking at their phones all the time. The NLRB did recently provide some clarity at least to commercial drivers in permitting bans on using cell phones while operating vehicles.

The NLRB case is [Argos USA](#) , N.L.R.B., Case 12-CA-196002, 2/5/20 . SAMPLE: "It should be noted that all computers, computer equipment, cell phones, and similar items are the property of COMPANY and are issued for employees' use only during their employment with the COMPANY. Inspections by COMPANY may be conducted at any time, at COMPANY's discretion. Accordingly, employees should have no expectation of privacy in these items."

Managing Risk

- Upgrade technology
 - Data leak protection, insurance, anti-virus, web-filtering and monitoring
- Update written policies
- Develop a firm security stance
- Designate a privacy and security team
 - Important to get a combination of HR, technical, and legal experience to be ready to act in the event of a breach or issue
- Know your business and office culture
 - Policies may need to vary among divisions/offices/etc.
- Employee Facing Reminders:
 - Make expectations and requirements for data protection, passwords, labeling, etc. clear
 - Be specific in prohibitions such as prohibiting gambling
 - Limit online activity during work hours to business-related purposes
 - Remind employees of their own personal responsibility for internet activity
 - Prohibit the use of mobile devices while driving or operating machinery
 - Get acknowledgement of policies signed!

BE CONSISTENT. Apply policies uniformly. The key is did the employee know what he or she was doing was prohibited?

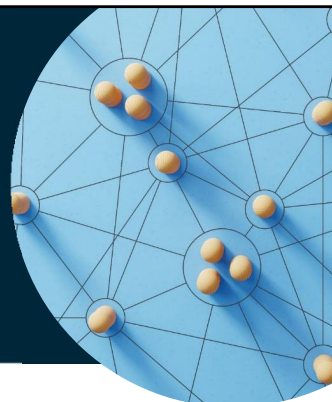
Gambling Ban Right For You?

- Depending upon your business/industry, you may want to consider a blanket ban on sports or other forms of gambling
- Ban wagering on Prediction Markets involving your company?
- Many Division I colleges/universities have banned all staff and students from betting on university games
 - Seems impossible to monitor, but time will tell
- Sports teams at any level
- Medical facilities that treat athletes
- Data companies
- Media outlets
- Law firms/agencies that represent athletes
- Law enforcement/Government officials
 - Need to establish policies about acting on private info
 - Accepting/soliciting gifts and/or bribes

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This goes beyond sports. Insider trading rules should apply to prediction markets too even if the federal government is not enforcing them right now.



Thank You

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