Op-Ed/Editorials – State Can Bar Some Adults From Gambling

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The Supreme Court of Louisiana has just upheld a statute which prevents some, but not all, adults from gambling.

In fact, the Court ruled that the State Legislature has the power to make it a crime to sell a lottery ticket to certain, selected adults, or to allow those same citizens to make a bet on a video poker machine.
The adults in question are everyone over the age of 18 and under the age of 21.
It is important to understand that the case does not involve children. Louisiana law is very clear that the age of majority, the year when a person stops being a child and becomes an adult, was lowered in 1972 from 21 to 18.

The Louisiana Constitution also has an unusual "Individual Dignity Clause." Justice Kimball wrote a separate opinion in the recent case to emphasize that Louisiana has a "unique constitutional provision which gives greater protection against age discrimination than either the United States Constitution or any other State Constitution."

Both the trial judge, Preston Aucoin, and Justice Lemmon of the Supreme Court felt the State had not proved that preventing 18 to 21 year-olds from gambling would have any greater benefit to society than if any other group of adults was chosen.

The majority, however, looked to a prior case, in which it upheld the State Legislature's raising the drinking age from 18 to 21. In that case, the Court looked at the evidence, experience, other states and common sense in concluding that keeping the group most likely to become involved in drunk driving accidents off the road protected not only those young adults, but society in general.

But while there is extensive evidence of the dangers of letting young people drink

and drive, the U.S., and, in fact, the entire world, has little experience with widespread legal gambling for any age group.
Dr. Rachel Volberg, the leading expert on the prevalence of compulsive gambling, has found in the relatively few studies that have been done, that 18 to 21 year-olds are three times as likely to have problems with gambling. At trial, the State's expert, Dr. James Westphal, testified that, "although the 18 to 20 year-old age group only comprises 8.2% of the total adult population, that age group makes up 22.5% of total adults with gambling disorders."

The problem for the law is how to deal with the fact that we treat 18 year-olds as competent for some activities and not for others.

Until the mid-1960s, American society, as shown in virtually all federal and state laws of the time, viewed 21 as the most appropriate age for full adult status. The problem began with the war in Vietnam.
Eighteen-year-olds were sent off to kill or be killed, but they could not vote. The result was the 26th Amendment to the United States Constitution, which lowered the voting age to 18 for all elected positions, federal and state.

After the 26th Amendment was ratified in 1971, it seemed logical to change all minimum age limits to 18. If a person is competent at 18 to make decisions as to who should be elected to every office in the land, that person must also be competent to serve on juries. If a person is competent to make those types of decisions that vitally affect the lives of others, that person must be able to make similar choices for himself or herself, such as signing contracts.

Because the law set 18 years as the legal floor for every other activity, there seemed little reason to keep the age at 21 for drinking and smoking.

But soon experience with the lowered age of majority led lawmakers to conclude that some things are just too dangerous for too many individuals who are only 18 years old, and too dangerous for society. Well-organized advocacy groups, such as Mothers Against Drunk Driving (MADD), had tremendous political success. By 1993 the National Transportation Safety Board reported that "no state allows the sale of alcohol to persons under the age of 21."

The proliferation of legal gambling occurred during this era: from the early 1970s, after the age of majority had been lowered to 18, to the mid-1990s, when many dangerous activities were limited once again to adults over 21. The result is

a mishmash of gambling age limits, differing not only from state to state but even within a single state.

Louisiana, for example, now prohibits anyone under 21 from buying a lottery ticket or playing a video poker machine. But an 18 year-old can place a parimutuel wager at a Louisiana racetrack and bet at charity bingo, including bingo machines.

If one age does not fit all for different types of gambling, why should we have one age for different types of people? We all know it is a legal fiction to state that individuals are incapable of making decisions on the day before their 18th birthday and completely competent adults the day after.
But what else is the law to do? Hold a hearing every time a young adult, or an older child, wants to do something that society regards as risky?

Even without detailed, scientific studies, the Louisiana Supreme Court probably made the right decision. Not that only the State Lottery and video poker should be limited to adults over 21. But that setting age limits is a political decision, which a society should make through its elected representatives.