

Op-Ed/Editorials: Some Adults Are Not Allowed To Bet

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Prof. I. Nelson Rose, J.D. Professor, Whittier Law School, Costa Mesa, CA
BASIS, editorial board member

Many casinos, state lotteries, bingo halls and racetracks won't let anyone under 18 participate in gaming. This does not present any legal issues, since in every state the age of majority is 18, meaning anyone younger is legally a minor. But gambling is also often barred to individuals older than 18, but younger than 21. This is particularly common in casinos and card clubs in states and on Indian land where alcoholic beverages are served and the minimum age to drink is 21. Is it legal to prevent 18-year-olds from making bets, when they are legally adults?

The Supreme Court of Louisiana has answered that question with a strong, "Yes." The case is particularly important because the Louisiana Constitution has an unusual "Individual Dignity Clause." As Justice Kimball of the Louisiana Supreme Court put it, Louisiana has a "unique constitutional provision which gives greater protection against age discrimination than either the United States Constitution or any other State Constitution." The majority of the State Supreme Court 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. The problem for the Court in this case is that there is not the same type of extensive evidence of the dangers of letting young adults gamble. When the voting age was lowered from 21 to 18 during the War in Vietnam, it made sense to lower the age of majority to 18 for everything, including drinking. But soon experience 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, is now one of the few states to prohibit anyone under 21 from buying a lottery ticket. But an 18-year-old can place a parimutuel wager at a Louisiana racetrack and bet at charity bingo, including bingo machines. 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 adults under 21 shouldn't buy lottery tickets or play video poker machines. But that setting age limits is a political decision, which a society should make through its elected representatives. And if 18-year-olds don't like having to wait till they're 21 to gamble, they can vote to change the law.

What do you think? Comments on this article can be addressed to Prof. I. Nelson Rose.

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