Judge rejects Kalshi attempt to override New York state gambling laws

“The presumption against preemption, therefore, applies to this case, and the Court must analyze whether Kalshi has demonstrated that, in enacting the CEA, it was the ‘clear and manifest purpose of Congress’ to preempt New York’s authority to regulate gambling where a DCM, like Kalshi, offers sports-event contracts on its platform,” Torres wrote.

No clear intent from Congress to preempt

Torres does not see any clear intent from Congress to preempt New York gambling laws. While the CEA gives the CFTC exclusive jurisdiction over transactions involving swaps on a DCM, it says this power does not “supersede or limit the jurisdiction at any time conferred on… other regulatory authorities under the laws of the United States or of any State.”

“This provision evinces Congress’ intent to leave room for states to regulate certain activities that may have otherwise been covered by the CEA… Moreover, given that the power to regulate gambling is a traditional police power exercised by New York, the Court also declines to interpret the CEA’s grant of exclusive jurisdiction as leaving ‘no room for supplementary state legislation,’” Torres wrote.

Congress specifically prohibited states from applying gambling laws to swaps in certain limited circumstances, and similarly prohibited state regulation of swaps in insurance contracts

and other contexts, Torres wrote. These provisions demonstrate “Congress’ intended scope of preemption” and provide evidence that “Congress did not intend to regulate so broadly as to exclude all state gambling laws from regulating transactions involving swaps,” she wrote.

Kalshi also hasn’t proven that enforcement of New York gambling laws would prevent the federal government from achieving the purposes of the Commodity Exchange Act, Torres found. “Kalshi has not shown that it is impossible to comply with both New York gambling laws and the CEA,” she wrote.

The legal battle over state regulation of prediction markets is proceeding at various district courts and circuit appeals courts around the US. In another lawsuit filed by Kalshi, the US Court of Appeals for the 3rd Circuit ruled in April that New Jersey cannot regulate sports bets on prediction markets.

Kalshi has lost some other notable decisions, including a 6th Circuit appeals court ruling in which judges refused to grant a preliminary injunction against Ohio gambling laws. Conflicting rulings at circuit appeals courts raise the odds that the Supreme Court will eventually determine where federal jurisdiction ends and state authority begins when it comes to prediction markets.

https://arstechnica.com/tech-policy/2026/07/new-york-can-restrict-sports-gambling-on-prediction-markets-us-judge-rules/