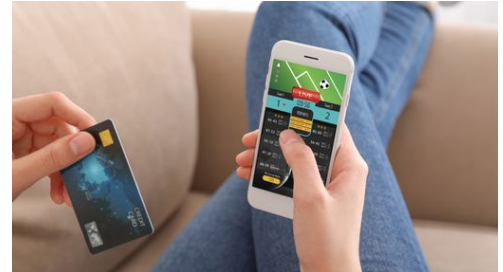


Securities Regulation Daily Wrap Up, FEDERAL PREEMPTION—D. Utah: Utah may enforce its gambling prohibitions against Kalshi, federal court decides, (Aug 5, 2026)

By Rebecca E. Hoffman, J.D.

The court found that the CEA does not preempt Utah's anti-gambling laws.

A federal judge granted summary judgment in favor of Utah's governor and other officials and against designated contract market KalshiEX, which had brought this action seeking a declaration that Utah's gambling restrictions were preempted by the CFTC's "exclusive jurisdiction" over swaps like Kalshi's sports-related event contracts ([KalshiEX LLC v. Cox](#), No. 2:26-cv-00151 (D. Utah Aug. 4, 2026)).



The Commodity Exchange Act, as amended by the Dodd-Frank Act, provides the CFTC with "exclusive jurisdiction ... with respect to ... transactions involving swaps ... traded or executed on" a DCM. Section [7 U.S.C. 2\(a\)\(1\)\(A\)](#) indicates that the CFTC's jurisdiction does not supersede states' jurisdiction, the court noted. Further, Section [16\(e\)\(2\)](#) specifically states that state gaming laws are only preempted in cases of certain off-DCM swaps.

Event contracts are bets, Utah says. Utah's gambling laws prohibit betting on whether outcomes will or will not occur in contests or games. Kalshi offers event contracts that pay customers based on the outcome of sporting events, which can include anything from which team will win the game to whether a certain player will score during a certain portion of the game. In February 2026, Utah Governor Spencer J. Cox posted on X about event contracts, saying that "[r]ebranding betting as a financial product doesn't reduce the harm it causes" and that he is "ready to defend our laws in court and protect Utahns from companies that drive addiction, isolation, and serious financial harm."

Kalshi sought a declaratory judgment that the CEA preempts any Utah law that interferes with the CFTC's exclusive authority to regulate the contracts at issue. The DCM moved for a preliminary injunction, and the Utah defendants filed alternatively for dismissal or for summary judgment.

Federal laws may preempt state laws, the court said, depending upon what Congress intended to be the statute's purpose. Unless it is clearly stated that Congress meant to supersede state law, the state's historic police powers will win out, particularly in areas that states have traditionally occupied, of which gambling is one, the court said.

The court found no express preemption here, observing that Section 2(a)(1)(A) provides that it will not "supersede or limit the jurisdiction conferred on courts of the United States or any State." It also specifically names situations in which the CEA *will* preempt state law, demonstrating that Congress did not mean to do so otherwise, and would have said so if it did.

Implied preemption. When it comes to fields historically controlled under state law, such as gambling, there is a strong presumption against implied preemption where express preemption is lacking. The "savings clause," in Section 2, which states that the CFTC's jurisdiction does not limit that of the states, undercuts any inference that Congress had intended preemption here. "Given the CEA's framework and the history of State regulation of gambling, the court cannot conclude the CEA is so pervasive that there is no room for the State of Utah to supplement it," the court concluded.

Conflict preemption. Kalshi alleged that it would not be possible to comply with the CEA and Utah's laws

simultaneously, in that it would have to block Utah residents from its exchange, and this would run afoul of the requirement that DCMs provide impartial access. The court said that CFTC commentary shows that the impartial access requirement is intended to prevent discrimination based on monetary resources.

Further, the court said, “Kalshi’s event contracts each contain an appendix of ‘Trading Prohibitions’—some of which are specific to individual groups of people. Adding an additional category of prohibited participants in a sports-related event contract does not appear to be onerous.” The court also disagreed with Kalshi that Utah law obstructs the purpose of the CEA in regulating derivatives markets.

““You can’t rebrand illegal gambling as a federal commodity,” Utah Attorney General Derek Brown said in a [press release](#). “Utah’s constitution bans gambling to protect Utah families, and my office will enforce that ban. Gambling is gambling no matter what any company calls it.”

The case is [No. 2:26-cv-00151](#).

Judge: Shelby, R.

Attorneys: Annika L. Jones (Snell & Wilmer L.L.P.) for KalshiEX LLC. Joshua Cutler, Utah Attorney General's Office, for Spencer J. Cox, Derek Brown, Daniel Burton, and Douglas Crapo.

Companies: KalshiEX LLC

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