

Bets may be off elsewhere, but Florida lawmakers receptive to online fantasy sports industry

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TALLAHASSEE — Two of the newest and biggest companies in online fantasy sports have been kicked out of Nevada, branded as illegal gambling.

New York's attorney general has accused the same companies, DraftKings and FanDuel, of misleading customers and has barred them from that state. Top officials for DraftKings last week tried to quell a growing movement in California to ban them while lawmakers in New Jersey and Pennsylvania debate whether to treat daily fantasy sports sites as games of chance.

But while other major states turn up the regulatory heat on the fast-growing industry, top Florida officials and regulators have been reluctant to weigh in. To the contrary, some powerful lawmakers who've received campaign donations from the fantasy sports lobby are trying to create a safe haven for the industry.

"Government should have little to no involvement in the recreational daily lives of Floridians," said state Rep. Matt Gaetz, R-Fort Walton, who filed a bill last week that would prohibit the state from treating fantasy sports companies as gambling operations. Providers would have to register with the state and provide assurances that minors are not participating. A companion Senate bill has been filed by Sen. Joe Negron, R-Stuart, who will become Senate president next year.

Despite a 1991 attorney general opinion that declared such games illegal in the Sunshine State, current Attorney General Pam Bondi has not publicly commented on the newer version, high-dollar fantasy sports industry and has, so far, refrained from investigations into the industry that her counterparts in New York and Massachusetts have embarked on. Gov. Rick Scott's Division of Parimutuel Waging has likewise remained silent.

The 1991 opinion, issued by former Florida Attorney General Bob Butterworth, a Democrat, declared that fantasy sports leagues that accept entry fees and distribute winnings are in violation of the state's gambling prohibition.

Bondi spokesman Whitney Ray said her office has had "extensive discussions" with the U.S. Attorney's Office and thinks the matter should be handled federally.

While facing combative legislatures in other states, the industry has found vociferous defenders in Florida.

Gaetz took to social media last week to equate protecting the fantasy sports industry to an act of liberty and keeping government out of people's personal business. And the political committees of 14 of Florida's most powerful legislators have accepted more than \$122,000 in campaign cash from the Fantasy Sports Trade Association since August.

Gaetz and Negrón are pushing the industry stance that fantasy sports are games of skill, not chance — a key distinction typically used to decide if an activity is gambling or not.

"This is not gambling," maintains Brian Ballard, a Tallahassee lobbyist who represents the Fantasy Sports Trade Association in Florida.

But there is a growing chorus of opponents who think otherwise. Nevada's Gaming Control Board, other gaming operators and some Florida state legislators worry that the games amount to the proliferation of gambling, and they point to the fact that some of the daily fantasy sports companies have affiliations with popular online poker websites and casinos.

At the heart of the dispute is the distinction between seasonlong fantasy sports and the daily fantasy sports games, which rely on different rules and handle money vastly differently.

Stop Predatory Gambling, the Washington, D.C., advocacy group dedicated to ending "government-sponsored gambling" released a report last week suggesting that daily fantasy sports games "have a fundamentally different relationship to chance than seasonlong fantasy games."

Seasonlong games require more skill than chance, the group argues, because participants draft players at the start of the season and have to make decisions throughout a whole season that can affect the overall outcome of their team. And those games are hosted on the Internet, often for free, by such providers as ESPN, Yahoo or the NFL, with no winnings flowing to or being paid out by those sites.

But daily fantasy sites, such as FanDuel and DraftKings, altered the traditional structure and business model of the fantasy sports leagues to offer contests that "restart constantly and typically are played against strangers," the report said. Because the games are so short in duration, they become less about skill and more about chance, the report says.

In addition, the report said, the daily fantasy sports companies are more like bookmakers, where they take a cut of money that contestants put into the contests against other strangers. While those daily sites offer free games, the issue has been games they offer that require participants to pay a fee for a chance to win money.

"The very existence of skilled DFS (daily fantasy sports) players — playing with an edge and for a profit — depends on the presence of lesser skilled players willing to gamble at a disadvantage against them," the Stop Predatory Gambling report said. "You can't have a skilled DFS player without a compensating gambler."

The report also notes that after the U.S. Department of Justice shut down a series of online poker operators, some of those same companies migrated to the daily fantasy sports arena.

For example, in the past year, Amaya, which runs a popular online poker site called PokerStars, announced it was creating a daily fantasy sports site, called StarsDraft. And in March, MGT Capital Investments and the Seneca Gaming Corp. in New York announced they were creating DraftDay, a daily fantasy sports site.

In Nevada, home to the nation's oldest gambling regulation, daily Fantasy Sports games are treated differently from seasonlong ones. The Nevada Gaming Control Board ruled last month that daily fantasy games are like sports-betting pools and must be regulated by the state.

Nevada's ruling has some Florida legislators willing to change their thinking.

State Sen. Bill Galvano, R-Bradenton, initially accepted a \$15,000 campaign donation from the Fantasy Sports Trade Association. But after the Nevada ruling, Galvano gave back the money to comply with his longstanding opposition to taking money from gambling companies.

He said for Nevada to rule it as gambling is a powerful message that should have influence on gambling discussions in Florida.

Even Yahoo, one of the leaders in fantasy sports games, is making distinctions depending on state rules.

While Yahoo's traditional fantasy leagues are open to players in any state, the company expressly prohibits would-be players in seven states — including Florida — from participating in its paid one-day or weekly fantasy sports games. Yahoo officials did not return calls seeking comment on the company's decision.

By contrast, DraftKings or FanDuel not only accept Florida players, but they are also working to protect their market share by pushing legislation, hiring teams of lobbyists in Tallahassee and handing out campaign cash to key legislators.

Among the recipients: Gaetz, one of the sponsors of the bill to require a \$500,000 license and prohibit regulators from designating daily fantasy sports games as games of chance.

Rep. Jose Felix Diaz, chairman of the House Regulatory Industries Committee that oversees gambling and who has a political committee that has accepted \$10,000 from Ballard's clients, is among those still deciding what approach to take.

"If we outlawed fantasy sports tomorrow, a lot of my voters would be very mad," said Diaz, a Miami Republican who says he has been playing in seasonlong fantasy sports leagues since high school. "It makes a lot of sense in Nevada where they need to put everything under a Gaming Control Board, but fantasy sports are very mainstream, so we need to be very careful."

He acknowledged, however, that his idea of fantasy sports is different from the fast-paced, heavily promoted daily games advertised by DraftKings and FanDuel.

"When I think of fantasy sports, they're not who I think of," he said. "I think of people who went to high school together and are in a Yahoo Fantasy Sports league — who do it for fun, not for money."

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Reality check on fantasy sports

Here's a synopsis of how some other states are handling the fantasy sports industry:

New York: On Nov. 10, New York's attorney general orders the two biggest daily fantasy sports companies, DraftKings and FanDuel, to stop accepting bets from New York residents.

Nevada: On Oct. 16, Nevada's Gaming Control Board declares daily fantasy sports games gambling and orders them to register as gaming operations.

Massachusetts: On Oct. 29, the Massachusetts Gaming Commission declares daily fantasy sports games should be subject to oversight regulations.

California: The California attorney general is being pushed by state lawmakers to shut down daily fantasy sports games, while others are pushing for a host of new regulations, including barring people under 21 from playing the games.

Pennsylvania: The commonwealth's General Assembly has held meetings to discuss legislation that includes a bill that would turn regulations of daily sports sites over to the Gaming Control Board and require hefty licensing fees of up to \$5 million.

New Jersey: Last week, New Jersey lawmakers held a hearing on the legality of daily fantasy sports games. The chairman of a key committee warned fantasy companies that they are going to be "regulated in one way or another."

Montana, Arizona, Louisiana, Iowa and Washington: Daily fantasy sports games are already prohibited.

Source: Times/Herald research