

Editorial: Should Florida Legislature legitimize daily fantasy sports?

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By Editorial Board

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Credit: Kathy Willens

LSU guard Tim Quarterman passes the ball as he moves down court past the FanDuel logo in the first half of an NCAA college basketball game in the Legends Classic consolation game against North Carolina State on Nov. 24, 2015, at Barclays Center in New York. The tournament's sponsor, FanDuel, and DraftKings are due back in a New York court after the state attorney general filed papers seeking to stop the sites from operating, while the sites have argued operations are legal. (AP Photo/Kathy Willens)

Is it a game of skill or chance?

The distinction lies at the heart of the growing national debate over online daily fantasy sports.

The issue will take center stage when the Florida Legislature convenes next month.

State Sen. Joe Negron, R-Stuart, and Rep. Matt Gaetz, R-Fort Walton Beach, have filed companion bills that would legitimize daily fantasy sports in Florida.

Negron believes state law is unclear when it comes to fantasy sports.

"More than 3 million Floridians play fantasy sports — football is the most popular — and they deserve an industry that is regulated and fair, with meaningful consumer protections," Negron explained via email.

Businesses typically eschew additional regulations. However, in an interesting twist, the Fantasy Sports Trade Association — a trade group for the fantasy sports industry — wasted little time backing Negron's and Gaetz's legislation.

In recent weeks, the trade association has contributed tens of thousands of dollars to more than a dozen state lawmakers and the political committees with which they are affiliated. This includes a \$10,000 donation to the Economic Freedom Foundation, a political committee chaired by Gaetz.

The Treasure Coast Alliance, a political committee controlled by Negron, also has received a \$10,000 contribution from the Fantasy Sports Trade Association.

Negron pointed out that he also has received money from groups that oppose daily fantasy sports.

Florida lawmakers are looking at legitimizing daily fantasy sports at a time when other states have moved — or are moving — to ban them as a form of gambling.

Two years ago, Florida lawmakers shut down Internet cafes because they were viewed as gambling establishments.

Are daily fantasy sports any different?

Sites such as FanDuel and DraftKings, the two biggest in the daily fantasy sports industry, [are prohibited from operating](#) in Arizona, Iowa, Louisiana, Montana, Nevada and Washington.

Both companies have filed appeals to the cease-and-desist order issued Nov. 10 by New York's attorney general, who called FanDuel and DraftKings "illegal gambling sites" and ordered them to discontinue operations in the state of New York.

There's a lot at stake here.

There are 56.8 million people playing fantasy sports in the United States and Canada, [according to the Fantasy Sports Trade Association](#).

"On average, fantasy sports players (ages 18 and older) spend \$465 on league-related costs, single-player challenge games, and league-related materials over a 12-month period," according to the association.

Daily fantasy sports are different from season-long fantasy sports played with friends or colleagues at work. With the latter, the stakes are relatively minor, as are the winnings.

In daily fantasy sports, participants play against strangers — in some cases, thousands of strangers, with varying degrees of expertise and resources at their disposal. Contestants select players based on a salary cap. The games restart constantly. Winnings can be substantial.

Senate Bill 832, sponsored by Negron, would establish a regulatory framework for daily fantasy sports sites in the Sunshine State. Operators would be required to register with the Florida Department of Agriculture and Consumer Services. The initial registration fee would be \$500,000; the annual renewal fee would be \$100,000.

Other provisions include verifying the age of participants (18 years or older), preventing the sharing of insider information and prohibiting employees or close relatives of any game operator from competing in a fantasy game where the purse is larger than \$5.

The proposed legislation would exempt daily fantasy sports from Florida Statutes Chapter 849, which regulates gambling in the state.

"Keep the government out of my fantasy football league," Gaetz posted on Twitter on Nov. 11.

That's a nice sentiment. But it glosses over the larger issue.

Is it enough simply to regulate daily fantasy sports — as Negron and Gaetz have proposed — or should it be prohibited as a form of gambling?

That brings us back to our original question: Are daily fantasy sports games of skill (i.e., dependent on the knowledge and ability of participants) or games of chance (i.e., gambling)?

"Fantasy sports is a game of skill," Negron said. "It involves being a general manager and drafting a team to compete with others interested in the same game. In my mind, it is the same as a person paying \$50 to join a bowling league, with the winning players and team getting a cash prize based on the results of the competition."

Now consider the perspective offered in a [November report by Stop Predatory Gambling](#), the Washington, D.C.-based advocacy group seeking to end government-sponsored gambling.

"The very existence of skilled 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 report states.

The report notes that the daily fantasy sports model depends on the "fishes" — the less-sophisticated masses who collectively wager huge sums of money — to feed the "sharks." The latter are the experts who design and use "sophisticated algorithms to take other people's money."

Ever wonder why FanDuel and DraftKings commercials are so ubiquitous?

"Finding new fish to feed to the sharks is the most important requirement if this scheme is to succeed," the report states.

It's not enough for state lawmakers to regulate daily fantasy sports.

This is a form of gambling that should be prohibited in Florida.