



February 25, 2016

Dear Virginia State Senate/House of Delegates Member:

On behalf of our Virginia supporters of Stop Predatory Gambling (SPG), I am writing in regard to the recent action you have taken to legalize internet gambling in Virginia by supporting **SB 646**.

Proponents of the bill have either misunderstood the implications of passing the bill or deliberately misrepresented it to the members of the Virginia Senate and House of Delegates.

SB 646, and its companion bill HB 775, represent the biggest expansion of gambling in Virginia history, forcing online gambling into every bedroom, living room and smart phone in the state.

These bills are part of a nationwide lobbying campaign by commercial gambling operators in more than 20 states where legislatures are currently in session. The implications of these bills are enormous and merit far more public scrutiny and legislative consideration than they have currently received. I urge you to call on the Governor to veto SB 646 that was recently sent to his desk and halt the movement of HB 775.

There are several egregious examples of the misinformation/misrepresentation involving this legislation to legalize online gambling. They include:

- 1) Relying on cookie cutter language found in proposed DFS bills in 14 other states, SB 646 allows far more forms of internet gambling than constituents, legislators and state media have been led to believe.**

Because gambling lobbyists have intentionally defined “fantasy contests” so vaguely, below are some examples of the kind of internet gambling that would be allowed under the Virginia bill, according to a national gambling industry journalist:

“Examples of bets that don’t appear to run afoul of the definition – and therefore, would not be illegal gambling under state law should the bill become law– include: *(SPG note- these are what are known as “proposition bets” and are lucrative to gambling operators)*

- Who will throw for more yards when Green Bay plays New England – Rodgers or Brady?
- What player will score the most/least points in the next quarter of the Cavaliers game?
- Which pitcher be the first to produce three groundouts when the Phillies play the Mets.

“There’s also nothing in the language that would obviously prohibit player-vs.-house contests. **And the language also allows for non-sports fantasy contests (e.g., awards shows, political debates, and even spelling bees).**”<sup>1</sup>

**2) SB 646 legalizes “eSports,” allowing gambling operators to turn every kid’s video game console like PlayStation, Xbox and Wii in the State of Virginia into a Las Vegas casino and state lottery retailer.**

Online gambling companies like Gamersaloon (<https://www.gamersaloon.com/home>) and DraftKings offer what is described as “eSports” where they encourage young people to wager and lose money on video games.<sup>2</sup>

The NBA is the latest sports league to jump into the growing eSports arena, following the NFL and FIFA through Electronic Arts’ *Madden NFL* and *FIFA* video game franchises.

Through the NBA’s licensing partnership with game publisher 2K (a division of Take-Two Interactive), *NBA 2K16: Road to the Finals* has kicked off a cross-platform competition on Sony’s PlayStation 4 and Microsoft’s Xbox One that will run through May 8. Young gamblers can form *NBA 2K Pro-Am* teams and compete online in any of 16 events. On May 21, the 16 winners on both the PS4 and Xbox One will go head-to-head in a single-elimination tournament. The winners will then face off in the \$250,000 championship in June at the NBA Finals.

Jason Argent, senior vice president of basketball operations at 2K, told *Fortune* that he believes that *NBA 2K*’s being tied to a real sport versus a more traditional fantasy video game such as Riot Games’ *League of Legends* has great potential to widen the eSports audience and take it more mainstream.<sup>3</sup>

**3) Despite cloaking the bill’s intent as “consumer protection,” there are virtually no new consumer protections for your constituents from these online gambling operators.**

In his insightful analysis of the pending DFS bills, Chris Grove, Editor of *LegalSportsReport.com* wrote the legislation filed in Virginia and other states

“...calls for little to no regulation of DFS - and what little regulation is included is generally handed off to a third-party via annual audit. In effect, it's self-regulation by another name...That's troubling, because the industry's self-regulation record has been abysmal. The latest example comes via FantasyHub, a site reportedly experiencing significant delays paying players and facing a lawsuit for nonpayment from at least one marketing partner.”<sup>4</sup>

**4) Lobbying campaigns have presented these online gambling operators as vibrant, sound businesses but recent media reports have spotlighted how they are on shaky financial ground.**

If presented accurate, objective information, very few legislators in Virginia and elsewhere would invite a business into their districts that is teetering on bankruptcy.

Despite the hundreds of millions of dollars on advertising and marketing in recent months, neither FanDuel nor DraftKings have turned a profit.<sup>5</sup> *The Boston Globe* reported this week that Boston-based DraftKings could be forced out of business entirely if it loses the next phase of its legal battle with New York's attorney general.<sup>6</sup>

In an uncommon moment of candor, one DFS executive, DraftDay President Nic Sulsky, admitted that "the business model of classic daily fantasy is unsustainable -- the cost of user acquisition is just astronomical."<sup>7</sup>

Because DFS is unsustainable as a standalone gambling game, *Bloomberg News* reported this week that one of the world's largest pornographic film companies, Vivid Entertainment, has partnered with DraftDay. Vivid will debut daily fantasy sports games, Vivid Sports 4 Money, in which customers assemble a roster based on actual players and win or lose based on how those athletes perform in real life.<sup>8</sup> It only costs about \$50 in marketing and advertising to draw a customer to a porn site, far less than it does to attract him to pure-play fantasy sports, according to the story.<sup>9</sup>

**5) To give the appearance that more support for online gambling exists than there really is, proponents are deliberately blurring the amount of participants in "daily fantasy sports" with traditional season-long games already played by Virginians.**

Gambling lobbyists across the country continue to misrepresent the amount of citizens involved with online fantasy sports gambling including Virginia. Legislative proponents then perpetuate this falsehood, assuming it was fact. When describing the DFS bill to Virginia NPR earlier this week, Del. Jackson Miller said "... what I wanted to do is to put some consumer protections in there but also make it so that ***the over 1.2 million Virginians*** who play it now can continue to play it."<sup>10</sup>

The amount of Virginia DFS users is not remotely close to 1.2 million. It has been widely reported that New York State has the largest amount of DFS users (about 900,000 people who have *ever* played,) making up 10% of the national market.<sup>11</sup> Virginia's market is a fraction of that figure.

## **Conclusion**

Because the facts about what SB 646 really does were not presented to the members of the Virginia Senate and House of Delegates nor to the general public at the time it was being considered, we strongly urge the members of the Virginia Legislature to take immediate action to halt the lobbying effort to legalize online gambling in the state.

For additional information on the issue, please contact me at (202) 567-6696. Thank you for your consideration.

Sincerely,



National Director  
Stop Predatory Gambling

SPG's mission is to build a more humane and just society by ending government's practice of using gambling to defraud and exploit citizens, whether in the form of lotteries, regional casinos or online gambling.

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<sup>1</sup> "States Passing Daily Fantasy Sports Bills May Be Authorizing Far More Sports Betting Than They Realize," *Legal Sports Report*, February, 19, 2016 <http://www.legalsportsreport.com/8421/dfs-bills-authorize-sports-betting/>

<sup>2</sup> "League Of DFS Legends: DraftKings Launching Fantasy eSports Platform," *Legal Sports Report*, Sept. 18, 2015 <http://www.legalsportsreport.com/4025/draftkings-fantasy-esports/>

<sup>3</sup> "How the NBA Will Impact the Bigger Battle for ESports," *Fortune*, February 17, 2016 <http://fortune.com/2016/02/17/2k-nba-partner-on-road-to-finals-competition/>

<sup>4</sup> "DFS bills," *The Chris Grove Report*, Legal Sports Report, February 18, 2016

<sup>5</sup> "In Fantasy Sports, Signs of Insiders' Edge," *The New York Times*, Oct. 11, 2015 <http://www.nytimes.com/2015/10/12/sports/fantasy-sports-draftkings-fanduel-insiders-edge-football.html?curator=SportsREDEF&r=2>

<sup>6</sup> "DraftKings lawyer says firm could go under if it loses N.Y. battle," *The Boston Globe*, February 23, 2016 <https://www.bostonglobe.com/business/2016/02/22/loss-case-could-put-draftkings-out-business-lawyer-says/be9iWNrzbk10aM6ldDt52l/story.html>

<sup>7</sup> "Porn Giant Vivid Wants to Rescue Daily Fantasy Sports," *Bloomberg News*, February 19, 2016 <http://www.bloomberg.com/news/articles/2016-02-19/porn-giant-vivid-wants-to-rescue-daily-fantasy-sports>

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> "Virginia Poised To Be First State To Legalize Daily Fantasy Sports," *Virginia NPR*, February 23, 2016 [https://wamu.org/news/16/02/23/virginia\\_poised\\_to\\_be\\_first\\_state\\_to\\_legalize\\_daily\\_fantasy\\_sports](https://wamu.org/news/16/02/23/virginia_poised_to_be_first_state_to_legalize_daily_fantasy_sports)

<sup>11</sup> "New York Wants Fantasy Sports Sites to Give Back Money," *Fortune*, January 2, 2016 <http://fortune.com/2016/01/02/fantasy-sports-lawsuit/>