

The Buffalo News

Gambling powers play both sides in New York battle over legalizing new games

Pressure builds as state considers legislation

<http://www.buffalonews.com/city-region/state/gambling-powers-play-both-sides-in-new-york-battle-over-legalizing-new-games-20160604>

By **Tom Precious** / News Albany Bureau / **@TomPreciousALB**
on June 4, 2016 - 7:34 PM

ALBANY – Gambling powers – from Malaysia, Las Vegas, Yonkers and even Hamburg – are engaged in a furious and expensive last-minute campaign at the state Capitol on whether to legalize daily fantasy sports contests and online poker wagering.

Gambling companies want permission to offer New York State residents access into a betting industry already flourishing on the internet. But New York State does not now regulate or share in the revenues from that industry.

There are opponents. And they sometimes form an odd coalition of church groups, who predict gambling addictions will worsen, and gambling companies already operating in New York, who say the state is saturated with wagering.

It makes for a complex maze of players. Consider what happened just this past week:

- Gambling opponents, including a Protestant minister, met with the head of a gambling group fighting a plan to legalize daily fantasy sports contests.
- Major casino companies, from Caesars Entertainment to MGM Resorts International, hired lobbyists to push a bill legalizing online poker bets on Texas Hold'em and Omaha Poker. They are whispering that fewer restrictions are being proposed for fantasy sports in the gambling expansion push.
- A memo went to key legislators, warning that “Internet gambling is dangerous for New York families.” The key player in the coalition that sent the memo is casino magnate Sheldon Adelson, head of Las Vegas Sands Corp.

The jockeying, hallway arm-twisting of lawmakers, timely donations and media spin are expected to continue until June 16, the scheduled last day of the 2016 legislative session. Those promoting fantasy sports and online poker are besieging lawmakers.

“New York has always been the prize,” Assemblyman Gary Pretlow, a Westchester Democrat who is chairman of the Assembly racing and wagering committee, said of the gambling industry. He is also the sponsor of legislation that would allow online poker and daily fantasy sports.

Expanding gambling

An assortment of gambling industry-related measures are pending at the Capitol.

One bill, for instance, would let charities sell raffle tickets online.

Another would end a four-year period of state control of a not-for-profit corporation that runs the state’s three premier thoroughbred racetracks.

And Western Regional Off-Track Betting Corp., which is owned by the counties in the region and the cities of Buffalo and Rochester, is lobbying for a bill to reduce the state tax payments it must make for wagers at its Batavia casino.

But much of the attention has centered on two bills: daily fantasy sports and online poker.

The goal is to legalize, regulate and then tax those two areas of wagering.

Daily fantasy sports was soaring in New York until State Attorney General Eric Schneiderman last year ordered its two top firms – DraftKings and FanDuel – to stop.

He argues the contests amount to illegal games of chance, not allowable games of skill as the companies contend. The matter has been in court, but earlier this year Schneiderman and the companies agreed to put the litigation on hold until September. That would allow the fantasy sports industry time to work on a deal with lawmakers and Gov. Andrew M. Cuomo to legalize their contests.

The attorney general is not taking a position on the legislation, a Schneiderman spokesman said .

Industry executives estimate DraftKings and FanDuel have a combined customer base in New York of 1 million people. These fans pay entry fees to play a daily version of the seasonlong contest of putting together fantasy teams based on real players. The contests stretch across the spectrum, from pro football, basketball, baseball and hockey, to golf and NASCAR races.

Legislation began moving last week through Senate and Assembly committees, and sponsors say they are close to a deal.

If the legislation passes, sports companies would be required to pay the state.

With the stakes high, DraftKings and FanDuel have hired a small army of lobbyists, including those with long ties to several Senate Republicans, Assembly Speaker Carl Heastie and the Governor's Office.

And Heastie last week repeated a line that a string of legislative leaders have uttered over the years about previous gambling bills: While he was not personally a fan of gambling because it can lead "to other ills in society," he believes there is a place for regulating and therefore legalizing fantasy sports.

"It's something that people look more as entertainment, even though it is some form of gambling," Heastie said.

Smaller fantasy sports firms are involved, too, such as Yahoo, with some of their focus over proposed state fees imposed on the industry that DraftKings and FanDuel can afford but wind up pushing smaller competitors out of the New York market.

"Fee structures must be equitable, supportive of competition and avoid building insurmountable barriers to entry into the marketplace," Yahoo wrote in a letter to a lawmaker.

Traditional critics

Critics of the legislation include the traditional opponents who fear more forms of gambling will lead to more addiction.

The opponents are most focused on the fantasy sports, believing it will affect far more New Yorkers than online poker.

"What they want to do is open a new market to younger males who will want to play interactive fantasy sports contests, which is booming right now," said Stephen Shafer, chairman of the Coalition Against Gambling in New York, which was created in Buffalo in 2004.

Shafer believes the fantasy legislation will create more problem gamblers because of its easy access over the internet.

"It's actually a Trojan horse for much bigger internet gambling," he said.

Moreover, they say one fantasy sports bill is written in such a way as to eventually allow a slew of other online gambling, like "eSports." That online betting presents video gaming competition in an industry expected to grow to \$1.8 billion in revenues within two years, according to Manhattan-based, market research firm SuperData.

The fantasy sports push in New York will create the “ultimate saturation” of gambling in New York, allowing wagers to be made “in every home, dorm room and smart phone in New York ... The fleecing continues,” said Les Bernal, the national director of Washington-based Stop Predatory Gambling, which works to stop government-sanctioned gambling expansions.

Opposing fantasy

Traditional opponents of the legislation also have allies in some unlikely places: established gambling enterprises. Lawmakers say they are under enormous pressure from track casinos in their districts to kill the fantasy sports legislation, unless the tracks can cash in, too.

Racetrack-based casinos, such as Hamburg and Batavia, oppose legalizing fantasy sports, saying their business will be cannibalized.

“The industry believes that (fantasy sports) is another form of gambling,” said James Featherstonhaugh, president of the New York Gaming Association, which represents nine racetrack-based casinos. These racetrack-casinos include Aqueduct in Queens, operated by Malaysian-based Genting Group.

But if lawmakers required the fantasy sports companies to partner with the racetrack casinos – as is required under the proposed online poker bill – then their fantasy opposition disappears.

“If it’s going to be done successfully – provide employment and support education (funding) – you need to have a limited number of facilities and a high tax rate,” Featherstonhaugh said.

The sides differ whether such linkage between brick-and-mortar casinos and fantasy sports operators is legal, with the fantasy sports industry saying any such demand would violate the federal constitution’s commerce clause.

Assemblyman Pretlow, and his committee counterpart in the Senate, Republican John Bonacic, last week both used the same term – “not a peep” – in describing the silence from New York’s existing casino operators about the growing fantasy sports industry in the state,

“You want to know what I would say to that? Peep,” Featherstonhaugh responded.

Bonacic, though, accuses the casinos of being “essentially greedy” for wanting a cut of the fantasy sports pie.

The campaign is fully engaged. The fantasy sports industry has helped to get consumers to send 50,000 emails to legislators.

Popular wagers

Advocates for both fantasy sports and online poker say millions of people elsewhere already are engaged with those games. So why not allow New Yorkers to participate and let the state collect taxes?

“New York is a sports state ... It’s a bond, a connection, that people have,” said Marc La Vorgna, a spokesman for Fantasy Sports for All. The group’s original funders are Boston-based DraftKings and New York-based FanDuel.

Nearly three dozen fantasy sports companies want to offer contests in a newly regulated market in New York. Investors are pumping money into the firms, as well as associated companies engaged in sports analytics and media operations.

“New York can be the home of the fantasy sports industry that is booming across the country,” La Vorgna said.

And to make its case, Las Vegas-based MGM Resorts is pitching to lawmakers that millions of New Yorkers already play online poker, but they do so on “unregulated and unprotected off-shore poker websites that operate with no oversight, fraud controls or age restrictions.”

Legislation in the pipeline would award up to 11 online poker licenses to existing or planned casinos in New York, and each licensee would provide a \$10 million fee to the state.

WNY voices

In Western New York, the president of the regional OTB corporation said the corporation has a contract with a small fantasy sports company to begin offering daily fantasy contests. But that is on hold until Albany, or the courts, decide the future of the industry in New York.

“We’re in favor of legislation to give us the opportunity to get into the online gaming business, which will provide additional money for our municipalities,” said Mike Kane, the head of the Western Regional Off-Track Betting Corp.

The region’s biggest existing gambling entity – the Seneca Nation of Indians, which runs casinos in Niagara Falls, Buffalo and Salamanca – declined to comment.

Lawmakers across the state say the issue has resonated with constituents,

In a Senate racing and wagering committee meeting last week, Sen. Phil Boyle, a Suffolk County Republican, recalled the day last November when Schneiderman issued a cease and desist order against DraftKings and FanDuel.

“I go to the same gym for 10 years. I walk in the next morning and a dozen guys who never talked to me in my entire life came up to me that morning and said, ‘You’ve got to change this.’ It’s very popular,” he said of fantasy sports.

Critics worry that all the gambling issues could be wrapped into one omnibus measure – known as a “big ugly” bill in Albany – along with unrelated and politically popular programs that would make it difficult for most lawmakers to oppose the legislation.

email: tprecious@buffnews.com