



---

# TYLER VORPAGEL

---

STATE REPRESENTATIVE • 27<sup>TH</sup> ASSEMBLY DISTRICT

Assembly Bill 800: relating to Daily Fantasy Sports  
Testimony of State Representative Tyler Vorpagel  
Committee on State Affairs and Government Operations  
January 19, 2016

Thank you Chairman Swearingen and fellow committee members of State Affairs and Government Operations for holding today's hearing on Assembly Bill 800 the Daily Fantasy Sports or DFS Bill.

In my testimony today I would like to cover a few things for you:

- 1.) How we arrived here today considering this bill, in other words a brief history of DFS and why I feel that it is important that we seriously consider this legislation
- 2.) Briefly describe the bill and issues it is intended to address
- 3.) How DFS works and how it differs from weekly fantasy sports,
- 4.) My thoughts on why this should be considered a 'game of skill' and how it differs from gambling.

I anticipate there will be many questions and I'm happy to address those as best I can, there are also a number of other folks here to testify today and they may be able to answer some questions that I can't, and we can certainly follow up as needed.

So, how did we get here with this bill? I have been a fantasy sports player for many years, I remember first learning about and playing a simple game with my dad and brother, when I was in grade school. I have since played fantasy football and baseball games. I recently started taking an interest in Daily Fantasy Sports over the past summer, and initially without any interest in a particular legislative direction, I started doing research on DFS. Then this fall there were two news stories that gave me a direction for legislation. The first story was an article from the Wall Street Journal – Storm of Criticism Engulfs DraftKings, FanDuel. The second was the NY Attorney General's legal efforts to end playing DFS in the state of New York.

Daily Fantasy Sports have been around for more than a decade, the first Daily Fantasy Sports sites sprung up shortly after the federal Unlawful Internet Gambling Enforcement Act (UIGEA) was signed in 2006, this is the bill that ended online poker. The UIGEA also defines a bet or wager and more importantly, to our discussion today, defines what a bet or a wager **is not** including participation in fantasy or simulation sports game. The definition of fantasy sports game used for AB 800 comes directly from the federal definition. While the UIGEA is a federal bill, it does not preempt state laws regarding gambling and I feel that because of recent news stories and actions taken by Attorney General's in other states attempting to shut down this activity, Wisconsin should address, through legislation, the legality of these companies to operate in our state, as well as some basic consumer protections.

We are seeing the sports industry embracing the interest in fantasy sports and offer more products to consumers, Podcasts like ESPN Fantasy Football and CBS Sports Fantasy Football today, no doubt even casual football fans have seen the integration of fantasy news in day in and day out coverage of sports, and



---

# TYLER VORPAGEL

---

STATE REPRESENTATIVE • 27<sup>TH</sup> ASSEMBLY DISTRICT

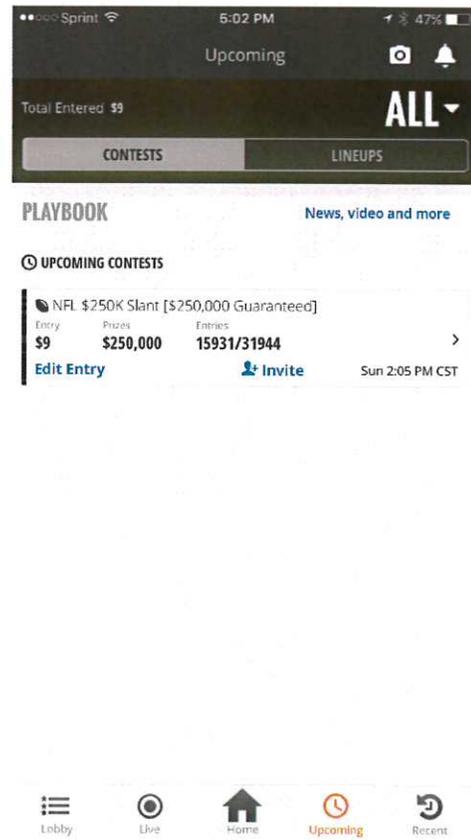
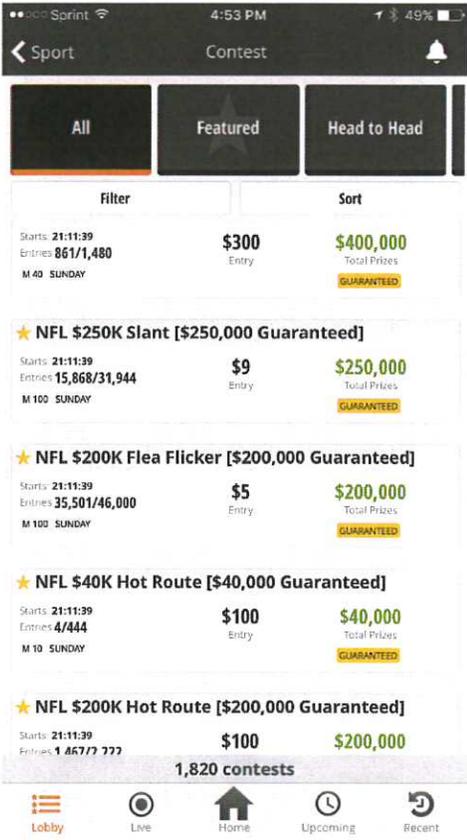
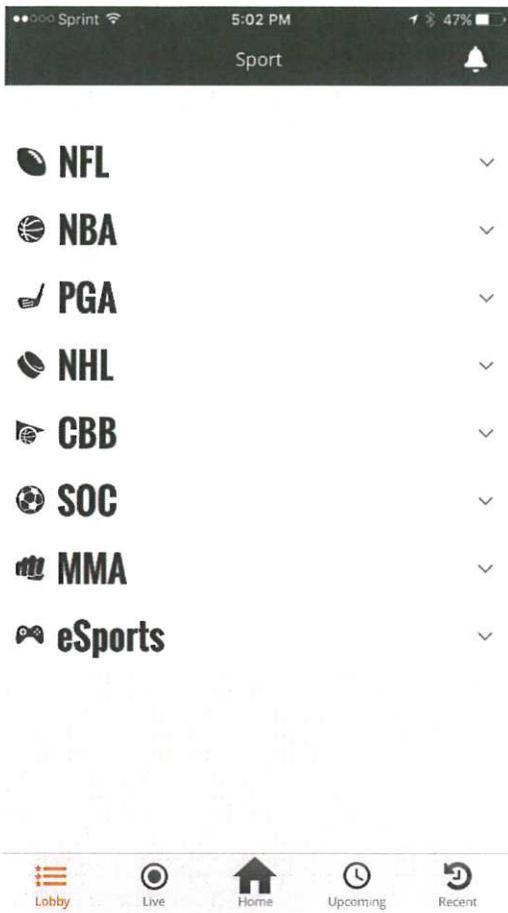
even fantasy news on pregame shows, ESPN even has a fleet of fantasy reporters and analysts keeping players up-to-date on the latest fantasy sports information. There is even a Madison-based company, Rotowire, who employs 27 people just up the road on Regent Street, who's President Peter Schoenke will be testifying later today. Their company provides statistical analysis and news for fantasy sports enthusiasts.

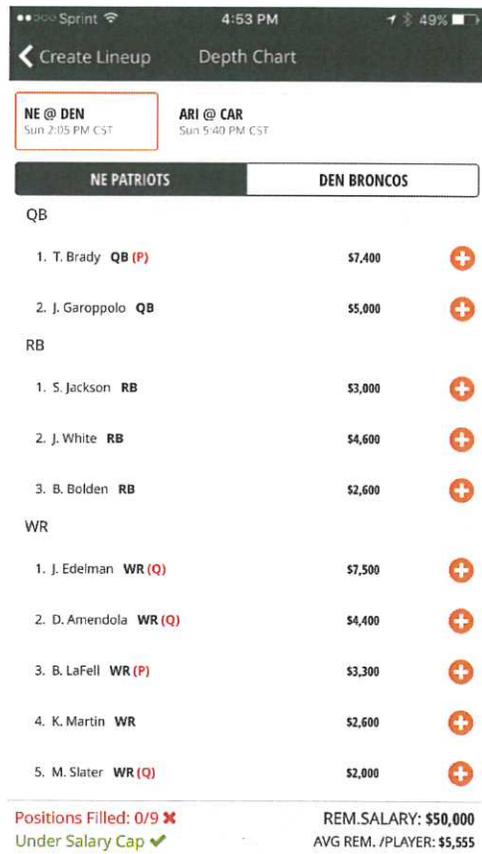
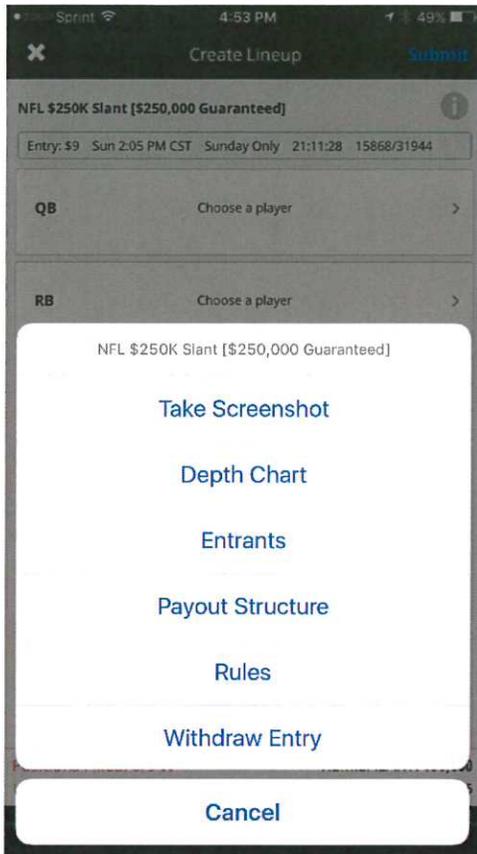
That brings us to AB 800 and today's hearing. The bill before you today would require fantasy game operators to register with the Department of Financial Institutions and imposes certain requirements on fantasy game operators. (570.10 a-h). AB 800 also defines a "Fantasy game," as being a fantasy or simulation sports game or educational game or contest in which all winning outcomes reflect the relative knowledge and skill of fantasy game participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events; in which a winning outcome is not based on the score, point spread, or performance of a single team or combination of teams or on any single performance of an individual athlete or player in a single event; and in which the value of all prizes and awards offered to fantasy game participants with winning outcomes is established and made known to the fantasy game participants in advance of the fantasy game. This is the definition of fantasy game in the UIGEA. Furthermore, AB 800 specifies that a fantasy game is not betting or a lottery.

I would guess that most people on this committee are familiar with the game of weekly fantasy sports and some may even participate in leagues with family and friends, a recent study shows that there are over 900,000 fantasy sports players in Wisconsin with 55 million nationwide. More recently we have seen sports fans take their love of weekly fantasy sports and show an interest in Daily Fantasy Sports which is a similar concept, but instead of playing in a season-long league, you are able to play without a season-long commitment. I would just like to take a moment to walk through how DFS works using an example from a game I played this weekend.

Finally, the debate on fantasy being a game of skill vs gambling. First of all, you can see the amount of statistics and research that is done when playing fantasy sports. Secondly, in order to participate you are paying a set entry fee and have there is a predetermined payout schedule, unlike in certain card games the more you be the more you can potentially win. Thirdly, in DFS everyone has an opportunity to select any and all athletes, unlike in some card games, for example, if you have an Ace, you know that there is one less Ace in the game. And finally, many organizations who have taken a hardline stance against gambling, namely Major League Baseball and the NFL, and their member teams, are partnering with DFS operators, because of the interest that fantasy sports brings to these leagues.

Thank you for your attention and patience in listening to my testimony and I would be happy to answer any questions the committee may have.





NFL \$250K Slant [\$250,000 Guaranteed]

1st	\$15,000.00
2nd	\$10,000.00
3rd	\$6,000.00
4th	\$4,000.00
5th	\$3,000.00
6th	\$2,000.00
7th-8th	\$1,500.00
9th-10th	\$1,000.00
11th-15th	\$750.00
16th-25th	\$500.00
26th-40th	\$400.00
41st-60th	\$300.00
61st-80th	\$200.00
81st-100th	\$150.00

NFL \$250K Slant [\$250,000 Guaranteed]

101st-150th	\$125.00
151st-200th	\$100.00
201st-300th	\$75.00
301st-500th	\$50.00
501st-1000th	\$40.00
1001st-1560th	\$35.00
1561st-2360th	\$30.00
2361st-3860th	\$23.00
3861st-6660th	\$18.00

CONTEST DETAILS

Entry Fee	\$9
Entries	<a href="#">Invite</a> 15881 / 31944
Places paid	6660
Total Prizes	\$250,000

NFL \$250K Slant [\$250,000 Guaranteed]

2361st-3860th	\$23.00
3861st-6660th	\$18.00

CONTEST DETAILS

Entry Fee	\$9
Entries	<a href="#">Invite</a> 15881 / 31944
Places paid	6660
Total Prizes	\$250,000
FPP Reward	36
Sport	NFL
Type	Multi-Entry
Starts	Sun 2:05 PM CST

2 GAMES

NE @ Den	Sun 2:05 PM CST
Ari @ Car	Sun 5:40 PM CST

follows:

- o Sack = +1PT
- o Interception = +2PTs
- o Fumble Recovery = +2PTs
- o Kickoff Return TD = +6PTs
- o Punt Return TD = +6PTs
- o Interception Return TD = +6PTs
- o Fumble Recovery TD = +6PTs
- o Blocked Punt or FG Return TD = +6PTs
- o Safety = +2PTs
- o Blocked Kick = +2PTs
- o 0 Points Allowed = +10PTs
- o 1-6 Points Allowed = +7PTs
- o 7-13 Points Allowed = +4PTs
- o 14-20 Points Allowed = +1PT
- o 21-27 Points Allowed = 0PTs
- o 28-34 Points Allowed = -1PT
- o 35+ Points Allowed = -4PTs

The following scoring plays will result in Points Allowed (PA) by your Defense/Special Teams (DST):

- o Rushing TDs, Passing TDs, Offensive Fumble Recovery TDs, Punt Return TDs, Kick Return TDs and Blocked Punt TDs
- o 2pt conversions
- o Extra-points
- o Field-goals

\*Note: Points Allowed (PA) only includes points surrendered while DST is on the field - doesn't include points given up by team's offense (i.e. points off offensive turnovers). 2 point conversion returns are not included.

### Football Scoring

- Offensive players will accumulate points as follows:
  - o Passing TD = +4PTs
  - o 25 Passing Yards = +1PT (+0.04PT/ per yard is awarded)
  - o 300+ Yard Passing Game = +3PTs
  - o Interception = -1PT
  - o 10 Rushing Yards = +1PT (+0.1PT per yard is awarded)
  - o Rushing TD = +6PTs
  - o 100+ Yard Rushing Game = +3PTs
  - o 10 Receiving Yards = +1PT (+0.1PT per yard is awarded)
  - o Reception = +1PT
  - o Receiving TD = +6PTs
  - o 100+ Yard Receiving Game = +3PTs
  - o Punt/Kickoff Return for TD = +6PTs
  - o Fumble Lost = -1PT
  - o 2 Point Conversion (Pass, Run, or Catch) = +2PTs
  - o Offensive Fumble Recovery TD = +6PTs
- Defense/Special Teams will accumulate points as follows:
  - o Sack = +1PT
  - o Interception = +2PTs
  - o Fumble Recovery = +2PTs
  - o Kickoff Return TD = +6PTs
  - o Punt Return TD = +6PTs

Player Search

All Games	NE @ DEN Sun 2:05 PM CST <a href="#">Depth Chart</a>	ARI @ CAR Sun 5:40 PM CST <a href="#">Depth Chart</a>
-----------	--	---

Sort

	<b>QB T. Brady P</b> NE @ DEN Sun 2:05 PM CST	<b>\$7,400</b> FPPG 23.8 OPRK 2nd
	<b>QB C. Newton</b> ARI @ CAR Sun 5:40 PM CST	<b>\$7,200</b> FPPG 25.0 OPRK 13th
	<b>QB C. Palmer P</b> ARI @ CAR Sun 5:40 PM CST	<b>\$6,800</b> FPPG 22.1 OPRK 11th
	<b>QB P. Manning P</b> NE @ DEN Sun 2:05 PM CST	<b>\$5,500</b> FPPG 11.4 OPRK 15th
	<b>QB D. Anderson</b> ARI @ CAR Sun 5:40 PM CST	<b>\$5,000</b> FPPG 0.4 OPRK 13th
	<b>QB D. Stanton</b> ARI @ CAR Sun 5:40 PM CST	<b>\$5,000</b> FPPG 0.1 OPRK 11th

Positions Filled: 0/9 ✖  
Under Salary Cap ✔

REM.SALARY: \$50,000  
AVG REM./PLAYER: \$5,555

**Create Lineup** Submit

**NFL \$250K Slant [\$250,000 Guaranteed]**

Entry: \$9 Sun 2:05 PM CST Sunday Only 21:07:41 15868/31944

**QB C. Palmer P** \$6,800  
ARI @ CAR  
FPPG 22.1  
OPRK 11th

**RB C. Anderson** \$4,400  
NE @ DEN  
FPPG 10.4  
OPRK 11th

**RB** Choose a player

**WR L. Fitzgerald** \$6,900  
ARI @ CAR  
FPPG 19.2  
OPRK 13th

**WR E. Sanders** \$6,300  
NE @ DEN  
FPPG 15.7  
OPRK 22nd

**WR** Choose a player

Positions Filled: 4/9  
Under Salary Cap

REM.SALARY: \$25,600  
AVG REM. /PLAYER: \$5,120

Clear Import Reserve Submit

**Create Lineup** Submit

**NFL \$250K Slant [\$250,000 Guaranteed]**

Entry: \$9 Sun 2:05 PM CST Sunday Only 21:06:37 15868/31944

**RB** Choose a player

**WR L. Fitzgerald** \$6,900  
ARI @ CAR  
FPPG 19.2  
OPRK 13th

**WR E. Sanders** \$6,300  
NE @ DEN  
FPPG 15.7  
OPRK 22nd

**WR** Choose a player

**TE G. Olsen** \$7,100  
ARI @ CAR  
FPPG 15.1  
OPRK 18th

**FLEX** Choose a player

Positions Filled: 6/9  
Under Salary Cap

REM.SALARY: \$15,400  
AVG REM. /PLAYER: \$5,133

Clear Import Reserve Submit

**Pick P...: FLEX** **Rob Gronkowski** Draft

**New England Patriots**  
TE | #87  
Salary: \$7,600  
Next Game: NE @ Den  
(01/24 3:05 PM EST)

REC	YDS	YDS/G	TD	FPPG
79	1259	78.7	13	18.6

LATEST NEWS GAME LOG MATCHUP

**LATEST PLAYER NEWS SUPPLIED BY ROTOWIRE:**

**January 22 (3:15:42 PM ET)**  
**UPDATE:** Gronkowski (knee/back) is one of the 16 players listed as questionable by the Patriots in advance of Sunday's AFC title game against the Broncos, WEEI.com reports.  
**ANALYSIS:** While the official questionable designation makes it prudent for fantasy owners to confirm Gronkowski's availability as Sunday's 3:05 ET kickoff approaches, there has been nothing to suggest that the star tight end will miss the contest after practicing all week in a limited fashion.

**January 20 (5:27:14 PM ET)**  
**UPDATE:** Gronkowski (knee/back) was listed as a limited practice participant Wednesday, the Boston Herald reports.  
**ANALYSIS:** That Gronkowski was listed as limited during Wednesday's walk-through session is not really a surprise, but with no reported setbacks during this past Saturday's divisional round win over the Chiefs, we suspect that the tight end's availability for Sunday's AFC championship game against the Broncos is not in any real jeopardy.

**January 16 (11:37:49 PM ET)**  
**UPDATE:** Gronkowski (knee/back) secured seven of eight targets for 83 yards and two touchdowns in Saturday's 27-20 playoff victory over the Chiefs.

Positions Filled: 8/9  
Under Salary Cap

REM.SALARY: \$7,600  
AVG REM. /PLAYER: \$7,600

**Pick P...: FLEX** **Rob Gronkowski** Draft

**New England Patriots**  
TE | #87  
Salary: \$7,600  
Next Game: NE @ Den  
(01/24 3:05 PM EST)

REC	YDS	YDS/G	TD	FPPG
79	1259	78.7	13	18.6

LATEST NEWS GAME LOG MATCHUP

**OPPONENT**  
Denver Broncos  
Den Ranks 17th against TEs (OPRK)

**DEFENSE AT A GLANCE**  
PaYDA/G: 206.1 NFL RANK: 2nd  
RuYDA/G: 83.6 NFL RANK: 2nd  
TYDA/G: 289.8 NFL RANK: 2nd  
PAVG: 17.2 NFL RANK: 4th

Positions Filled: 8/9  
Under Salary Cap

REM.SALARY: \$7,600  
AVG REM. /PLAYER: \$7,600

Sprint 5:02 PM 47%

Create Lineup Submit

NFL \$250K Slant [\$250,000 Guaranteed]

Entry: \$9 Sun 2:05 PM CST Sunday Only 21:02:39 15868/31944

	QB C. Palmer P ARI @ CAR Sun 5:40 PM CST	\$6,800 FPPG 22.1 OPRK 11th
	RB C. Anderson NE @ DEN Sun 2:05 PM CST	\$4,400 FPPG 10.4 OPRK 11th
	RB A. Ellington ARI @ CAR Sun 5:40 PM CST	\$2,500 FPPG 6.9 OPRK 18th
	WR L. Fitzgerald ARI @ CAR Sun 5:40 PM CST	\$6,900 FPPG 19.2 OPRK 13th
	WR E. Sanders NE @ DEN Sun 2:05 PM CST	\$6,300 FPPG 15.7 OPRK 22nd

Current Balance: \$132  
FPP Reward: 36

Submit Entry \$9

Cancel

Back to Mail 10:01 AM 40%

draftkings.com

Available on the App Store

NFL \$25 Double Up [\$5K Gtd] (Multi-Entry) - Start Time: 1/24/2016 3:05 pm EST

Draft Type:	Salary Cap
Entries:	194/227
Entry Fee:	\$25
Total Prizes:	\$5,000.00
FPP:	100
MultiEntry	
Live at:	Sun 1/24 3:05 PM EST

Rank	Prize Payouts
1st - 100th	\$50.00

WR Choose a player

WR Choose a player

Remaining: \$50,000  
Roster: 0/9 spots filled Avg Rem. \$/Player: \$5,555.56

Sprint 5:31 PM 22%

GameCenter NFL GIANT ...

NFL GIANT \$5 Double Up [\$10,000 Guaranteed] Today at 2:05 PM CST

	Place 1026th FPTS 60.60 PMR 301	VS		Place 492nd FPTS 73.10 PMR 241	\$5
--	---------------------------------------	----	--	--------------------------------------	-----

C. Palmer Not yet started	QB	C. Anderson NE 18 @ DEN 20 0:12 4Q	C. Anderson NE 18 @ DEN 20 0:12 4Q
A. Ellington Not yet started	RB	J. White NE 18 @ DEN 20 0:12 4Q	
L. Fitzgerald Not yet started	WR		
M. Floyd Not yet started	WR		

Lobby Live Home Upcoming Recent

Sprint 5:31 PM 22%

GameCenter NFL GIANT ...

L. Fitzgerald Not yet started	WR	J. Edelman NE 18 @ DEN 20 0:12 4Q
M. Floyd Not yet started	WR	
E. Sanders NE 18 @ DEN 20 0:12 4Q	WR	J. Edelman NE 18 @ DEN 20 0:12 4Q
G. Olsen Not yet started	TE	R. Gronkowski NE 18 @ DEN 20 0:12 4Q
R. Gronkowski NE 18 @ DEN 20 0:12 4Q	FLEX	S. Jackson NE 18 @ DEN 20 0:12 4Q
Patriots NE 18 @ DEN 20 0:12 4Q	DST	

Lobby Live Home Upcoming Recent

## TARGET REPORT

Targets listed in the charts below showcase Weeks 15-17 and playoff games played for wide receivers.

### ARIZONA CARDINALS

PLAYER	TEAM	GP	TGTS	REG	RECYD	RECTD
John Brown	ARI	4	33	15	190	2
Larry Fitzgerald	ARI	4	28	21	303	3
Michael Floyd	ARI	4	27	15	223	2
J.J. Nelson	ARI	3	4	1	8	0
Jaron Brown	ARI	2	2	1	15	0

### CAROLINA PANTHERS

PLAYER	TEAM	GP	TGTS	REG	RECYD	RECTD
Philly Brown	CAR	4	21	11	170	1
Devin Funchess	CAR	4	17	10	162	2
Ted Ginn	CAR	3	17	7	94	2
Jerricho Cotchery	CAR	4	15	13	145	1

TEAM	OPP	PAYD <sub>A</sub>	PATD <sub>A</sub>	INT	COMP%	TGTS
DEN	NE	3544	19	14	60%	573
CAR	ARI	4054	21	24	60%	650
ARI	CAR	3957	24	19	59%	573
NE	DEN	4210	24	12	60%	596

### RB MATCHUPS

Running back matchups are ranked from best to last in the chart.

TEAM	OPP	RUYD <sub>A</sub>	RUTD <sub>A</sub>	YPC	RECTB	REC%	TGTS
ARI	CAR	1116	7	3.7	3	77%	99
NE	DEN	1387	7	3.9	1	77%	118
DEN	NE	1108	9	3	5	68%	141
CAR	ARI	1188	9	3.7	3	71%	152

### WR MATCHUPS

Wide Receiver matchups are ranked from best to last in the chart.

TEAM	OPP	RECYD <sub>A</sub>	RECTD <sub>A</sub>	COMP%	TGTS
DEN	NE	1906	7	58%	284
ARI	CAR	2324	14	54%	326

# THE WALL STREET JOURNAL.

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <http://www.djreprints.com>.

<http://www.wsj.com/articles/new-york-asks-court-to-shut-down-fanduel-draftkings-1447784740>

TECH

## New York Asks Court to Shut Down FanDuel, DraftKings

Attorney General Schneiderman calls daily fantasy sports 'plainly illegal'; FanDuel bars New Yorkers temporarily



New York's attorney general has asked a state court to shut down the big daily fantasy sports operators FanDuel and DraftKings. PHOTO: SCOTT OLSON/GETTY IMAGES

By SHARON TERLEP

Updated Nov. 17, 2015 2:30 p.m. ET

The New York attorney general on Tuesday asked a state court to shut down the two largest daily fantasy sports operators, his latest effort to prevent state residents from

playing the controversial games.

FanDuel Inc. said on Tuesday it would temporarily bar New York residents from playing contests on its site. It had already stopped taking new deposits. Rival DraftKings Inc. continued to allow New Yorkers to play without restriction. The two dominate the fantasy sports business.

In a motion for a preliminary injunction filed on Tuesday in New York State Supreme Court, Attorney General Eric Schneiderman argued that the state constitution prohibits bookmaking and gambling and that daily fantasy sports contests are “plainly illegal.”

“While irresponsibly denying their status as gambling companies, the DFS sites pose precisely the same risks to New York residents that New York’s antigambling laws were intended to avoid,” the attorney general’s office said.

New York-based FanDuel said in response: “We maintain, unequivocally, that FanDuel has always complied with state and federal law. We look forward to vindicating our position in court next week.”

---

#### RELATED COVERAGE

---

The

- Judge Denies DraftKings, FanDuel Requests for Restraining Order (<http://www.wsj.com/articles/judge-denies-draftkings-fanduel-requests-for-restraining-order-1447721572>)
- FanDuel to Stop Accepting New Deposits from New York (<http://www.wsj.com/articles/draftkings-fanduel-file-suits-to-prevent-shuttering-new-york-operations-1447434894>)
- Daily Fantasy Sports Sites Ordered to Shut Down in Nevada (<http://www.wsj.com/articles/daily-fantasy-sports-sites-ordered-to-shut-down-in-nevada-1444956906>)
- Storm of Criticism Engulfs DraftKings, FanDuel (<http://www.wsj.com/articles/storm-of-criticism-engulfs-draftkings-fanduel-1444107475>)

company also said New Yorkers are free to withdraw money from their accounts.

Boston-based DraftKings said in a statement that “we believe the attorney general’s view of this issue is based on an incomplete understanding of the facts about how our business operates and a fundamental misinterpretation and misapplication of the law.”

Both have said daily fantasy sports contests are games of skill and expressly exempted from a federal law prohibiting online gambling. They also contend that daily fantasy sports contests are not prohibited under New York law.

In Tuesday’s court filing, the attorney general accused both sites of encouraging

employees to play on competing sites. FanDuel, the complaint said, urged workers to take steps to prevent the public from learning they were playing against insiders. It also alleged DraftKings received some \$480,000 in deposits from residents living in states including Montana and Arizona where daily sports fantasy contests aren't allowed under state law.

Both companies declined to comment on the allegations. They have previously said that they take steps to ensure players from states where daily fantasy sports isn't allowed aren't able to play. They also recently prohibited employees from playing on rival sites.

The state filing accuses the companies of having pitched their services to investors as gambling ventures and claims people are increasingly attending Gamblers Anonymous meetings and counselors' offices for help coping with addiction to daily fantasy sports.

New Yorkers are the most active players of daily fantasy sports in North America, accounting for 12.8% of players, followed by California with 9.7% and Illinois with 6.7%, according to Eilers Research LLC, which tracks the gaming industry.

Mr. Schneiderman's office announced last month it was investigating the two companies. Last week, his office said daily fantasy sports constitute gambling because players are "placing bets on events outside of their control or influence" and because games are based on one week or a day of action, unlike traditional fantasy-sports formats where players are drafted for a full season.

In Tuesday's filing, Mr. Schneiderman laid out instances in which the companies have used gambling terms and descriptions to make the case that daily fantasy is akin to any other kind of gambling. "FanDuel and DraftKings' current denials about DFS constituting gambling are belied by how the sites depicted themselves in the past and how they portray themselves behind closed doors," the motion said.

Fantasy sites set a price on athletes, based on factors such as talent and opposing competition. Customers use an allotted budget to fill out their lineups before games are played in hopes the athletes they choose will outperform the teams compiled by others.

—*Sarah E. Needleman contributed to this article*

**Write to** Sharon Terlep at [sharon.terlep@wsj.com](mailto:sharon.terlep@wsj.com)

Copyright 2014 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit [www.djreprints.com](http://www.djreprints.com).

# THE WALL STREET JOURNAL.

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <http://www.djreprints.com>.

<http://www.wsj.com/articles/storm-of-criticism-engulfs-draftkings-fanduel-1444107475>

TECH

## Storm of Criticism Engulfs DraftKings, FanDuel

Fantasy-sports companies defend policies after a DraftKings employee releases data early

By **SARAH E. NEEDLEMAN**

Oct. 6, 2015 12:57 a.m. ET

A storm of online criticism has roiled the two largest fantasy-sports companies in North America, casting a spotlight on an industry already under scrutiny for lacking government oversight.

Billion-dollar startups FanDuel Inc. and DraftKings Inc. run online contests in which people draft virtual teams of professional athletes and compete against each other based on the athletes' real-world performances.

A number of posts on fantasy-sports sites such as RotoGrinders criticized the companies for unfair practices after last week's admission by a DraftKings employee that he prematurely released data about the site's biggest contest before some of the National Football League games involved in it had started.

The venture-backed companies released joint statements Monday asserting that they have "strong policies in place" to ensure proper handling of company data.

DraftKings employee Ethan Haskell said on a message board that by accident he prematurely published data to the company's blog from the lineups of players

submitted to the DraftKings site for its Millionaire Maker contest.

“I’ve fixed the error and we’ll be putting checks in place to make sure it doesn’t happen again,” Mr. Haskell wrote on RotoGrinders. “I was the only person with this data and as a DK employee, am not allowed to play on the site. 100% my fault and I apologize for any issues.”

Mr. Haskell won \$350,000 on a \$25 buy-in on rival site FanDuel the same week, DraftKings and FanDuel said.

Attempts to reach Mr. Haskell through DraftKings were unsuccessful.

DraftKings Chief Executive Jason Robins said Mr. Haskell won the money fairly because the employee, a content manager who joined the company in June 2014, received the data at a time when it was no longer possible to change his FanDuel lineup to his advantage. FanDuel confirmed Mr. Haskell wouldn’t have been able to change his lineup at that time.

DraftKings concluded that while Mr. Haskell did prematurely publish data from a company analyst on customers’ picks of players, the move was unintentional and he didn’t benefit from it financially.

“We interviewed everyone involved and they all corroborated what really happened,” said Mr. Robins, also a co-founder of the company. Mr. Haskell “didn’t do anything ethically wrong,” he added. “He made a mistake in his job and he’ll certainly hear about it.”

In some of the largest and most lucrative games offered on FanDuel and DraftKings, thousands of players vie for the top prizes. The lineups chosen by all of the contestants aren’t revealed until after the games have started. If one person has advance knowledge of whom others selected, he can choose different lineups that don’t overlap—and thus give him a better chance of winning in such large fields.

For example, if a person knows that most other contestants picked Aaron Rodgers as quarterback, he could potentially get an advantage by being one of relatively few contestants to pick Peyton Manning.

Adam Krejcik, a partner at Eilers Research who follows the fantasy sports industry, says Mr. Haskell’s act doesn’t suggest that it is a rampant problem. “It wasn’t like this was pure fraud or money being stolen from other people’s accounts,” he said. But he added

that the incident “couldn’t come as a worse time for the industry,” as legislators in New Jersey, California and Massachusetts have recently proposed initiatives aimed at regulating fantasy sports in some fashion.

FanDuel and DraftKings together control some 95% of the North American daily fantasy market and have respective valuations of \$1.3 billion and \$1.2 billion. Neither has made a profit, though, due to heavy ad spending to draw in customers. For instance, during just one week last month, DraftKings had 5,800 television commercial airings for about \$20 million, according to ad tracker iSpot.tv.

The sites generate revenue by keeping a portion of the money their users pay to participate in the contests. FanDuel said it generated \$57 million in revenue in 2014 and awarded \$564 million in cash prizes, while DraftKings said it made \$30 million in revenue last year and gave away \$300 million in prizes. FanDuel has said it would dole out \$2 billion in prizes this year, while DraftKings has pledged to give away at least \$1 billion in prizes this year.

**Write to Sarah E. Needleman at [sarah.needleman@wsj.com](mailto:sarah.needleman@wsj.com)**

Copyright 2014 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit [www.djreprints.com](http://www.djreprints.com).



**WISCONSIN FAMILY ACTION**  
Marriage|Family|Life|Liberty

PO Box 1327 • Madison WI 53701-1327  
608-268-5074 (Madison) • 866-849-2536 (toll-free) • 608-256-3370 (fax)  
Email: [info@wifamilyaction.org](mailto:info@wifamilyaction.org) • Web site: [www.wifamilyaction.org](http://www.wifamilyaction.org)

**Testimony in Opposition to Assembly Bill 800**  
**Assembly Committee on State Affairs and Government Operations**  
**Public Hearing, January 27, 2016**  
**Julaine Appling**  
***President, Wisconsin Family Action***

Thank you, Chairman Swearingen and committee members, for the opportunity to testify on Assembly Bill 800. I am Julaine Appling, president of Wisconsin Family Action. Our organization is deeply interested in the welfare of Wisconsin's best natural resource, her families. As such we oppose the expansion of gambling in our state. We believe, however well intentioned the authors of this bill may be, that AB 800 will result in an unprecedented expansion of gambling; and therefore we oppose it.

I became aware of Daily Fantasy Sports (DFS) because as an ardent Packers fan, I regularly check the team's website. During this past season, I frequently saw attention-getting banner advertisements from FanDuel. Curiosity finally won out, and one day I clicked on the ad. When I landed on the page, my immediate reaction was, "Wow. This is online gambling. I thought this was illegal in Wisconsin."

It looked like gambling, sounded like gambling, and felt like gambling. I bailed out of the site and didn't think much more about it until I began reading news reports from around the country indicating considerable controversy in a number of states over Daily Fantasy Sports and whether or not it is gambling and would therefore be illegal in most states, including Wisconsin.

AB 800 seeks to make a distinction that games of skill should not be considered gambling and even asserts that DFS is not gambling. We disagree. DFS is not like fantasy sports, an activity that spans an entire season and is not about cash investments or cash winnings. DFS contains all the elements of gambling, including a player making a wager, cash prizes and chance. Skill is not only *not* required, having "unskilled" players as well as "skilled" players is necessary for the game.

A good analogy might be poker. Poker well played takes quite a bit of skill—and everyone recognizes it as gambling. No one would contend it isn't gambling because it's a game of skill. Online poker is illegal in Wisconsin, in fact. DFS should be too.

Regulating DFS as proposed in this bill simply legalizes this online gambling, while also ensuring that only a select few will be able to afford to launch DFS enterprises in Wisconsin. The \$150,000 "entry fee" will be prohibitive to many, thereby creating something of a monopoly-like situation, which I would assume would not be acceptable to any number of legislators.

In recent months, a number of experts as well as state attorneys general have opined that DFS is gambling. Late last month, Illinois Attorney General Lisa Madigan deemed that under state law DFS is gambling. She noted, "Participants (in the online fantasy leagues) must pay an entry fee or buy-in amount in order to win a prize. Consequently, the act of playing daily fantasy sports contests in Illinois constitutes illegal gambling."<sup>1</sup>

<sup>1</sup> <http://www.cnbc.com/2015/12/23/illinois-daily-fantasy-sports-is-illegal-gambling.html>

New York Attorney General Eric Schneiderman determined this past November that DFS violates New York's gambling laws and asked courts to stop FanDuel and DraftKings from operating in that state. Schneiderman wrote in an op ed that "[d]aily fantasy sports is much closer to online poker than it is to traditional fantasy sports. Unlike most traditional, season-long fantasy sports sites, which make most of their money from administrative fees and advertising, FanDuel and DraftKings take a cut of every bet. That is what bookies do, and it is illegal in New York." He goes on to say, "In fact, as our court papers lay out, these companies are based on business models that are identical to other forms of gambling. FanDuel was created by a veteran of the legal online betting industry in the United Kingdom, while the CEO of DraftKings suggested that it operates in the 'gambling space,' and described its revenue model as 'identical to a casino.'"<sup>2</sup>

Earlier this month Vermont and Texas have stated DFS is gambling and violates their state laws. You can add Nevada to that list as well. No doubt there will be others as the reach of DFS expands. Obviously, this is a contentious issue and states are beginning to line up on the side that says DFS is gambling and is therefore not permitted per state law. Simply declaring, as AB 800 does, that DFS is not gambling does not make that the truth or reality. I can declare that a dog is a cat and that doesn't change the truth or the reality—even if I dress the dog up like a cat. It's still a dog.

We oppose AB 800 because we believe this online gambling will be a siren song that many Wisconsin residents, in particular young people—even teens—will not be able to resist. We know gambling is addictive. When it is as near as a smart phone, tablet or desktop computer, we as a state are just asking for problems.

Wisconsin Council on Problem Gambling has reported that as of 2014 calls to the Council's 24-hour helpline have increased 329% since 1996, and that about 333,000 Wisconsin citizens have a gambling problem.<sup>3</sup> Imagine the magnitude of the problem if we legalize online gambling which would be available basically anywhere at anytime.

Stories are beginning to surface of people, especially young men, who have become addicted to DFS gambling. Joshua Adams from New York is one of those. He is a problem gambler who thought he had his problem under control until he got involved with DFS. In his words, "Absolutely it is gambling." To him "games with a single payout after the season didn't seem to him like gambling. It was very different, though, when the action became daily, offering quick payouts, hundreds of bets each day and six-figure cash prizes." Thirty-something Adams says DFS was "a game changer."<sup>4</sup>

Rather than try to legalize, regulate and embrace this business, Wisconsin ought to join other states in declaring this newest expansion of gambling illegal. At a minimum, we should seek a statement from our Attorney General on this matter and not rush this bill through. Too much is at stake. As always, gambling is a bad bet for Wisconsin because it harms our state's best natural resource, our families. I urge you to slow down on this bill and consider carefully the information I and others will present today. In the end, I hope you will come to the responsible position of standing down on this bill.

---

<sup>2</sup> <http://www.nydailynews.com/new-york/ag-schneiderman-bad-gamble-bluff-law-article-1.2441071>

<sup>3</sup> <http://wi-problemgamblers.org/about/wisconsin-council-on-problem-gambling-fact-sheet>

<sup>4</sup> <http://www.nytimes.com/2015/11/23/sports/fantasy-sports-addiction-gambling-draftkings-fanduel.html?action=click&contentCollection=Magazine&module=RelatedCoverage&region=Marginalia&pgtype=article>



TO: Chairman Swearingen and Committee Members of State Affairs and Government Operations

FR: Lorri Pickens, Citizens Against Expanded Gambling

DATE: January 27, 2015

RE: Testimony Opposing AB 800

---

Thank you Chairman Swearingen and Committee Members of State Affairs and Government Operations.

My name is Lorri Pickens, and I am here on behalf of Citizens Against Expanded Gambling to oppose AB 800. Citizens Against Expanded Gambling is a group of concerned citizens, employers and community leaders who oppose the expansion of gambling in Wisconsin.

We represent like-minded citizens across Wisconsin who have joined our efforts to oppose the expansion of gambling, educate policy leaders about the dangers of expanding gambling in Wisconsin and to advocate for state policies that will keep Wisconsin a safe and healthy place to raise a family.

Accordingly, AB 800 presents great concern for us. This bill represents the biggest expansion of gambling in Wisconsin history. By defining Daily Fantasy Sports as a game of skill, you'll be opening a casino and lottery retailer in every bedroom and smart phone in the state.

The Daily Fantasy Sports (DFS) games themselves are dishonest and predatory. Legalizing them doesn't change that reality. It's a public rip-off.

Moreover, DFS meets all of the requirements of the fundamental definition of commercial gambling and have a fundamentally different relationship to chance than season-long fantasy games. On a given day an injury, a snowstorm, or a ball bouncing strangely could affect a result. In this regard, placing a wager with a DFS operator is very similar to placing a bet with a bookmaker.

It has **consideration** (the player wagers money).

It has a **prize** (the player wins cash prizes).

And it has **chance** (there must be at least enough variance that an unskilled or lesser skilled bettor can win the prize, at least in the short run).

Calling it a game of skill doesn't change that reality. It's a public deception.

Many of America's casino operators and gambling regulators publicly call DFS "gambling." MGM Casinos Chairman Jim Murren [recently said](#) those who argue that daily fantasy games are not gambling are "absolutely, utterly wrong." Murren added, "I don't know how to run a football team, but I do know how to run a casino, and this is gambling."

Joe Asher, the CEO of major sports book operator William Hill U.S., [echoed](#) Murren's declaration. "You put up of something of value, cash, to win something of value, cash. It's the classic definition of gambling...any suggestion that (fantasy sports) is not gambling is the biggest bunch of baloney I've ever seen."

Even the people who run these online DFS sites publicly admit they are running a gambling operation like "a casino." DraftKings CEO Jason Robins [acknowledged](#) his website was "almost identical to a casino" in an online discussion on Reddit three years ago.

AB 800 legalizes DFS gambling and provides the entry way for all online gambling. Gambling has grown at an extraordinary rate after the Wisconsin Legislature legalized the lottery in 1989. This growth has come with serious consequences to the citizens.

Wisconsin's own Council on Problem Gambling shows an alarming increase in problem gambling with a direct correlation to the expansion of gambling in Wisconsin.

*Approximately 333,000 Wisconsin residents have a gambling problem.*

Calls to the Wisconsin Council on Problem Gambling's 24-hour Helpline have increased 329% since 1996.

*The average debt of callers contacting the Helpline is \$46,967.*

Rose Gruber, Executive Director of the Wisconsin Council on Problem Gambling says the total number of calls only tells part of the story. The calls in 2015 included:

- A call from a Sauk County woman who said her boyfriend attempted suicide when she found out about his gambling addiction
- A call from an Outagamie County man who said he is now homeless due to gambling.
- A Brown County caller who says he gambled away the \$500,000 he inherited from his father and has also maxed out his credit cards and lost his job.
- A Milwaukee County woman who said she usually limits herself to \$10 to \$20, but recently spent her whole paycheck gambling.

If we legalize online gambling in Wisconsin, all you really need is a credit card and a computer, and you're one click away from losing your home, your family, and your life. In the best interest of Wisconsin citizens, we strongly urge a no vote on this bill.

Thank you for your consideration.

Sincerely,

Lorri Pickens

Citizens Against Expanded Gambling

[lorri@citizensagainstgambling.com](mailto:lorri@citizensagainstgambling.com)

920-358-7980

**Written Testimony  
Before the Wisconsin  
Committee on State Affairs and Government Operations  
January 27, 2016**

**By  
Peter Schoenke  
Chairman, Fantasy Sports Trade Association  
President, RotoWire**

Good afternoon Chairman Swearingen and members of the committee. Thank you for the opportunity to testify today. My name is Peter Schoenke and I am the Chairman of the Fantasy Sports Trade Association.

I know it's hard to believe that a trade association for fantasy sports even exists, let alone that it has over 300 members, including ESPN, Yahoo!, CBS Sports, NFL.com and NBC. But it exists for a simple reason. Fantasy sports have become our new national pastime. Over 50 million Americans participate in some form of fantasy sports. Wisconsin is hardly an outlier. We estimate that just under 1 million Wisconsin residents participate in these contests each year. And they do so because it is a form of entertainment that gives them a deeper appreciation for the sports that they love.

I have three objectives this morning. First, I want to make everyone aware that Wisconsin is a cornerstone of the fantasy sports industry. Second, I want to provide the committee with a brief primer on what a fantasy sports contest entails, with particular emphasis on the weekly or daily format. Lastly, I want to discuss why these contests, regardless of duration, are games of skill and therefore legal under Wisconsin law.

In addition to being the Chairman of the industry's trade group, I'm also the founder and president of RotoWire, a leading information web site for fantasy sports, based here in Madison. RotoWire reaches millions of fantasy sports consumers through our web site, RotoWire.com, two print publications and through top selling mobile apps. RotoWire is also the leading provider of fantasy sports information to the fantasy sports industry with customers such as ESPN, Yahoo!, FOX Sports, NFL.com, FanDuel, DraftKings and over 50 syndication partners. If you've played fantasy sports, it's nearly certain you've seen RotoWire's player news and injury information in your fantasy game.

To power all that information, RotoWire has 22 full time employees in Madison, along with twenty part-time employees and staff of nearly 200 freelance writers across the country. We've found Madison and the state of Wisconsin to be a great home for our operation given the sports-crazed culture, the wealth of talent coming from the University of Wisconsin system and the affordability of running a business.

RotoWire is one of several prominent fantasy sports companies that make Wisconsin their home, including the most competitive season-long competition, the National Fantasy

Football Championship, the leading customized fantasy football league management service, MyFantasyLeague.com, and home to several prominent writers and programmers for such companies as FantasyLabs, The Fantasy Football Players Championship and Advanced Sports Logic.

If you are not familiar with these Wisconsin businesses, let me give you a brief primer on fantasy sports. I know that for some of you, this industry has come out of nowhere. In fact, some may be under the impression that fantasy sports did not even exist until the first week of September, when everyone started seeing all those ads. The truth is that fantasy sports have existed for over 35 years. And while there have been innovations, the concept has remained the same throughout.

The objective is to select a team of real-world athletes and participate against others based on a scoring system that turns on real-world statistics, as opposed to the outcome of the game. Let us use fantasy football as an example. Players typically draft or select a team of eight real-world football players to fill positions like quarterback, running back, wide receiver, tight end, and kicker. Like any owner or general manager the goal is to assemble a team of players that will accumulate the most points. A running back, for instance, earns one point for every ten rushing yards and six points for a touchdown. But again, I want to emphasize, fantasy sports is not about who wins or loses the game, it is about who performs the best in certain statistical areas. Take Aaron Rodgers for example. He threw four touchdowns against the Panthers earlier this season. Yet, the Packers, lost. Meanwhile, Rodgers led my fantasy team to a big victory over an old college friend in my 27-year old league.

Now, let us turn to the weekly or daily format. I think there is a view out there that those contests are drastically different from the traditional season-long format. That the latter is more akin to chess, while the weekly or daily format is akin to roulette or slots. Nothing could be further from the truth. The two formats are virtually identical. All of the same basic principles found in the season-long format exist in the daily or weekly format. You still need to assemble a team of eight to ten real-world players. You still have to fill multiple positions with players from different teams. And those players earn points through the exact same scoring system that we use in my season-long league. And the daily format resembles the salary cap contests provided in print publications back when I started playing. The only difference is the duration of the contest. Rather than wait until the end of an eighteen week season to crown a champion, a daily or weekly contest takes place over the course of a single day or weekend. Think speed chess versus traditional chess, or writing a short story versus writing a novel.

That brings me to my final point. Regardless of the length of the contest, fantasy sports is a game of skill, not a game of chance. It is not enough to know the most popular teams and their most recognizable stars. You need to understand scoring systems, the particular strengths of different players, the type of offensive scheme that they play in, and the quality of their matchups. And I can tell you this from my own experience, whether a participant wins or loses depends entirely on the amount of time, research, experience, and talent—skill—that he or she has relative to the other players in the contest. If you are in a fantasy league, over the years you

learn that some members of your league win more regularly than others because they try harder and have innate skills of picking the best players.

In fact, the most common excuse that someone gives when I ask whether they play fantasy sports is, "I just don't have the time." You do not hear that about roulette, blackjack, or other games of chance. And that is because unlike those contests, there is no systemic chance in fantasy sports. Winning and losing does not come down to the spin of the wheel, the roll of the dice, or the turn of the card. Or, in the words of one group, "the typical fantasy sports league is not 'gambling' because winning is based predominantly on skill and knowledge about the featured sports and its athletes, not on chance. In other words, fantasy sports leagues challenge the participants to exercise judgment-making skills similar to a coach or general manager. Now those are not the words of some fantasy sports advocate. That statement comes from a 2012 guide that the group "Stop Predatory Gambling" prepared for state lawmakers.

The \$64,000 question for today's hearing is whether skill plays the same role in a daily or weekly contest. And the answer, at least, in mine and others' view, is yes. Skill is just as determinative of the outcome in a daily or weekly contest than it is in a season-long contest. It requires a different set of skills, but skill still predominates.

Now I know some of you are skeptical about this, but in a daily fantasy sports contest you are forced to make a decision on every player scheduled to play that day. For example, in a traditional fantasy baseball league few backup catchers are used because they play so infrequently. You need not study them.

In daily fantasy sports suddenly every player is an option - even a backup catcher such as Drew Butera, who with a .507 career OPS ranks as one of the worst hitters in modern major league history. If you chose a lineup with a bunch of superstars, you may be forced to pick a cheap player such as Butera if he's in the starting lineup. And he may be a value if he's playing in a hitter's park like Coors Field or faces a pitcher that he's had some success against. Yes, you need to study Drew Butera and hundreds of other players each night, while also taking into account such factors as wind direction and platoon splits. It's a different skill set than used in traditional fantasy baseball, but I think you'd agree just as much work.

This is also consistent with how Congress treated fantasy sports contests in the Unlawful Internet Gambling Enforcement Act of 2006. It exempted fantasy sports contests from the Act's definition of unlawful internet gambling. I know there is some controversy about this exemption, but no one can dispute its significance. Congress looked at this issue and determined that fantasy sports contests are not inherently games of chance, but can be structured to ensure they are contests of skill.

And finally, it is consistent with the conclusions reached by Major League Baseball, the NBA, NHL, and MLS. All four of those leagues have kicked the tires on the legality of daily fantasy sports and kicked them hard. And all four have not only concluded that daily fantasy sports is a game of skill, they have partnered with and even invested in one of the two major daily fantasy sports operators.

But we are not here today to tell this committee to leave fantasy sports alone. We are well aware of some of the concerns that have arisen in recent weeks. We came here today just as we have in other states, looking for legislation that will provide clarity on the legality of fantasy sports contests and, at the same time, require operators to satisfy reasonable, yet important, consumer protection obligations. To that end, we welcome Assembly Bill 800 put forth by Representatives Vorpapel, Brostoff and Loudenbeck. It's a tough bill for the industry and certainly not perfect, - the \$150,000 licensing fee will be very problematic for our members - but it sets up a framework that will allow us to continue to operate in the State, while providing our players with a safe environment. We look forward to working with this committee and the legislature to improve this bill and ensure that the nearly one million fantasy sports players in Wisconsin can continue to play the games they love.

Thank you and I am happy to answer any questions.

**Written Testimony  
Before the Wisconsin  
Committee on State Affairs and Government Operations  
January 27, 2016**

**By  
Mike Hall  
President and Owner, Sideline Software, Inc.**

Good afternoon Chairman Swearingen and members of the committee. Thank you for the opportunity to testify today. My name is Mike Hall and I am the President of Sideline Software, Inc.

My company is based in Fitchburg and was formed in the early 1990's to help fantasy sports players run their fantasy football leagues. Our premier product is an online fantasy football league management system called MyFantasyLeague.com. We host over 25,000 fantasy football leagues on our software that is used by over 250,000 people and generated over a billion page views last year.

Wisconsin has a long, proud history of being a leader in the fantasy sports hobby. While fantasy sports have been in the news lately, this isn't an industry that just developed overnight. The first fantasy sports magazine began in Wisconsin by Krause Publications in the small town of Iola in 1989. The state has also been the home to pioneering companies offering salary cap games, league management services, player news and other information. And today it's fostered a community of leading information, league management and contests sites that call the state home.

Sideline Software helps the Wisconsin economy by contracting with other local Wisconsin businesses. We host all of our servers at CDW Berbee, which is a Fitchburg based ISP. We use a local accounting firm based out of Middleton, WI. And we have a cross promotional partnership with FanDraft, a fantasy football software company that was developed in Madison.

Fantasy Sports have grown rapidly in popularity the past twenty years fueled by technological innovation that doesn't often fit with centuries old laws. Daily fantasy sports in particular have boomed the last few years along with the growth of mobile devices. That growth has brought our industry new challenges.

Wisconsin needs to work together with our industry to grow this business, which we already know is good for the pro teams, the pro leagues, the TV networks, and even the athletes. More people watch pro sports because of fantasy sports, and now even more because of daily fantasy sports.

I'd ask that you be mindful of the many small businesses, such as my own, that have been operating in the state for years as you consider new regulations. In particular I'm worried that the large registration fees in this proposed bill could limit the growth of my business and possibly result in only a few companies being able to operate in the state.

We need a regulatory framework that gives all fantasy sports players an even playing field, while not being so burdensome to deter small businesses and new startups. I look forward to working with this committee and the legislature to ensure that fantasy sports can continue to thrive in Wisconsin.