

# New York Starts DFS Discussion

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New York has started to investigate the possibility of regulating daily fantasy sports (DFS) through a study requested of the state's Gaming Commission and separate legislation to grant the gambling agency powers to set formal rules for fantasy games.

At the request of Commissioner John Poklemba, the New York State Gaming Commission is preparing a report ahead of its November 23 public meeting on how fantasy sports fits within the regulatory body's constitutional mandate.

Meanwhile, New York Assembly Assistant Speaker Felix Ortiz has also started asking his fellow lawmakers for support for a draft bill, seen by GamblingCompliance, which would classify "fantasy sports gaming" as a "gaming activity" subject to the commission's authority.

If Ortiz's bill is passed in its current form, it would allow the New York Gaming Commission to promulgate formal rules for the **highly-scrutinized** DFS industry, although it does not provide any specifics on what types of regulations would be necessary.

John Bonacic, the state Senate's point-man on gaming issues, also has been watching fantasy sports and issues arising from the recent "insider betting" scandal involving a DraftKings employee.

However, Bonacic said he is holding out on introducing any legislation of his own until New York's legislative session reconvenes in January.

"Going forward, regulations may be necessary to ensure the integrity of the contests are maintained," Bonacic, who serves as chairman of the Senate's gaming and wagering committee, told GamblingCompliance.

"Whether it would be better to have the industry regulated by a single set of federal rules, as opposed to a patchwork of potentially conflicting state statutes, is an open question."

In August, Bonacic said he believed some kind of formal taxation structure for fantasy sports was also likely.

"If there is an opportunity for governments to tax, then they will find it," Bonacic said at a **gaming law conference** in Saratoga Springs.

"It is just a matter of time until states see how many people are playing fantasy sports that they will find a way to regulate it."

As Assemblyman Ortiz's legislation stands now, it would allow state regulators to create a licensing structure and internal controls for daily fantasy sports operators.

However, more specific language would need to be added if the state is interested in implementing some kind of tax on DFS operations, said Robert McLaughlin, head of the gaming practice at law firm Hodgson Russ in Albany.

"The bill would allow the Gaming Commission to promulgate rules for a license fee or annual fee, but they can't collect revenue unless language is included in this year's budget bill," McLaughlin told GamblingCompliance.

Once formally introduced, Ortiz's bill will become the third regulatory proposal to be considered by a state legislature this year.

An **Illinois bill introduced last week** would require fantasy operators to meet a set of minimum standards and submit annual audit reports to demonstrate their compliance.

A more detailed, **gambling-style oversight regime** has been proposed under a bill introduced in the California Assembly in September.

Already, there are indications that leading fantasy sports operators are preparing for legislative scrutiny in the Empire State as well.

According to a report on file with the New York State Joint Commission on Public Ethics, the Fantasy Sports Trade Association (FSTA), DraftKings and FanDuel in August hired the Manhattan-based firm Parkside Group to represent them in Albany.

Last month, New York Attorney General Eric Schneiderman also opened **a formal inquiry** into the use of information by employees at both DraftKings and FanDuel.

In the wake of recent scrutiny, both companies have permanently banned their employees from entering any daily fantasy contests for money.

Last week, the FSTA also announced the creation of an **outside control board** to provide a system of self-regulation for operators.

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