

# WHAT TO EXPECT FOR DAILY FANTASY SPORTS

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Fantasy sports are among the most popular games on the internet. Although they predated the internet's inception, the internet enabled their explosive growth and they have become as much a staple of sports as the actual events. Fantasy sports are permitted at the federal level pursuant to an exemption, as long as they are based on skill, meet certain other criteria, and are not otherwise prohibited at the state level. For example, certain states do not permit consideration to be paid for contests of skill, so most fantasy sports operators have always avoided those states. As another example, some fantasy operators avoided other states because of their narrow definition of a game of skill.

Companies operating in the now heavily saturated fantasy sports market have relied on innovation to compete. This innovation, along with the shutdown of illegal poker websites, manifested into a relatively new form of fantasy sports, referred to as daily fantasy sports. DFS for short, these companies allow the gamer to pick and choose teams or players over a much shorter period of time than traditional fantasy sports, which often last the whole season. Contests can last a day or a week and, as with season-long fantasy, consist of gamers paying an entry fee and using their allotted salary cap to build out their teams for the contest.

The [20th Annual East Coast Gaming Congress & iGaming Institute](#) has panels dedicated to the current state of DFS and what you can expect for the future.

The increasing popularity of DFS, combined with ubiquitous media advertisements this fall, brought them controversy and the attention of law enforcement and gaming regulators. This attention was complicated by partnerships with the media, major leagues, and professional teams. Nevada and New York were the first to take a position on DFS by declaring the operations illegal, and now DFS face an uncertain future in many states.

Although both Nevada and New York declared current DFS operations illegal, most attention was initially focused on New York, as the two market leading DFS companies, FanDuel and Draftkings,

exited Nevada relatively quietly. There was no quick, quiet exit in New York, whose DFS players formed a large share of the market. Instead, in October of 2015, when New York Attorney General Eric Schneiderman issued cease and desist letters to FanDuel and Draftkings, they publicly denounced Schneiderman's claims and defended their company's actions and integrity both in the media and in court. As the court battle was playing out, legislators in New York sprung to action and proposed versions of draft fantasy bills, providing a mechanism to legalize and regulate fantasy sports. While continuing to defend their position, both entities have agreed to exit New York and have hired lobbyists in connection with proposed legislation.

The DFS controversy spread quickly across the United States and not a day goes by without another state either proposing legislation or issuing an Attorney General letter against DFS. Still, FanDuel, Draftkings and others continue operations in some states, particularly ones that more liberally define a game of skill. The DFS discussion recently caught the attention of the United States Congress. A subcommittee within the Energy and Commerce Committee has planned a May 11th hearing on the subject.

Debate continues to rage on whether there is more skill with regular fantasy than with DFS, and about why DFS is being singled out. Consumer protection concerns have been raised. DFS operators understand that their industry is in a new era. It is just that no one yet knows yet what the era will look like.

Legislative proposals ranges from requiring high license fees with little investigation to just the opposite. DFS will likely be regulated on a state by state basis that may result in drastically different verdicts depending on their existing criminal laws and gaming laws. And who will regulate DFS? The gaming regulators, even if it is not "gaming"? The Department of Consumer Affairs?

And will anyone other than Fanduel and Draftkings survive high licensing costs? Is the DFS industry still united? Early rulings could set precedents for other states to follow. But what FanDuel and Draftkings might view as an early victory may be viewed by smaller companies as a loss. And how do regulated casinos factor into all of this?

Everyone agrees that the fantasy sports industry will be changed. This leaves significant risk and opportunity for DFS companies and the gaming industry. Everyone also agrees that a collaborative effort is needed. Exactly what the landscape will look like and how long it will take to enter this new era is still up in the air.

Daily fantasy sports, and all that comes with them, are making waves in the iGaming world. [Register here](#) for the 20th annual East Coast Gaming Congress & iGaming Institute and learn more from our panelists on Wednesday and Thursday, May 25 and 26, at Harrah's Waterfront Resort and Conference Center in Atlantic City.