



April 7, 2016

Dear Members of the House Committee on General, Housing and Military Affairs:

On behalf of our Vermont supporters of Stop Predatory Gambling (SPG), I am writing in regard to S. 223 which if passed, legalizes internet gambling in Vermont.

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

S. 223 represents the biggest expansion of gambling in Vermont history, forcing online gambling into every bedroom, living room and smart phone in the state.

The lobbying push for internet gambling in Vermont is part of a \$10 million nationwide lobbying campaign by commercial gambling interests involving 78 lobbyists in 34 states.¹

The implications of these bills are enormous and merit far more public scrutiny and legislative consideration than they have currently received.

Here are some key facts why the committee should oppose S. 223:

1) Gambling Operators Themselves Openly Admit Daily Fantasy Sports is Gambling

Many of America's casino operators and gambling regulators openly describe DFS as gambling. MGM Casinos Chairman Jim Murren said those who argue that daily fantasy games are not gambling are "absolutely, utterly wrong. I don't know how to run a football team, but I do know how to run a casino, and this is gambling."²

The CEO of major sports book operator William Hill U.S., Joe Asher, said it even more bluntly: "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."³

Even the people who run online DFS sites privately 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.⁴

Despite this reality, the gambling interests behind S. 223 have included language to exempt online gambling operators from Vermont's gambling statutes (see Sec. 4188.)

2) The Vermont bill allows far more forms of internet gambling than constituents, legislators and state media have been led to believe.

Regulation cannot reduce a harm if it encourages more of the activity that causes that harm. 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 a bill sponsored by gambling interests appearing in many states as part of this stealth national lobbying campaign. 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 will 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).**”⁵

3) S. 223 legalizes “eSports,” allowing gambling operators to turn every kid’s video game console like PlayStation, Xbox and Wii in the State of Vermont into a Las Vegas casino.

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.⁶

“eSports” is the far more lucrative target for gambling operators. According to industry experts, the eSports revolution is going to change competition as we know it:

Noah Whinston, who recently started an eSports team funded almost entirely by big-name venture capitalists, declared: “Within three years there are going to be more of them watching eSports than there are watching every other traditional sport combined.”

“Young adults today, they don’t want to just go and watch a baseball game,” adds Tobias Sherman, an eSports agent with IMG, one of the nation’s biggest sports agencies. “Whether it’s alien or foreign or absurd to us, it’s eSports that’s going to be second nature.”⁷

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.⁸

4) Despite cloaking S. 223's intent as "consumer protection," there are virtually no new consumer protections for your constituents from online gambling operators.

In his insightful analysis of the pending DFS bills, Chris Grove, Editor of the pro-gambling industry media site *LegalSportsReport.com*, wrote the legislation filed in states across the U.S.:

"...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."⁹

S. 223 is a prime example. The legislation simply calls for "an independent audit" that is paid for and supplied by the gambling operator to the state Attorney General's office.

5) 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 Vermont 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.¹⁰ *The Boston Globe* reported recently 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.¹¹

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."¹²

Because DFS is unsustainable as a standalone gambling game, *Bloomberg News* reported 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.¹³ 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.¹⁴

6) Government’s “Regulation” of Gambling Has Been a Spectacular Failure, and Inevitably, Online Gambling Will Be the Biggest Failure of All

Gambling interests, joined by some public officials, declare the solution for DFS is to allow government to sponsor internet gambling, or “regulated” gambling as the lobbyists call it, but these proposals provide no facts to suggest that government-sponsorship is an effective public policy. There is no need to speculate about what “regulated” online gambling really means. Simply look at government’s experiment with state lotteries and regional casinos. There is no location in America where government-sponsored gambling has collectively improved the lives of citizens, long-term. By almost any measure, government’s “regulation” of gambling has been a spectacular failure, contributing to rising unfairness and inequality in American life.¹⁵

Government-Sponsored Gambling Contributes to Rising Inequality

A mountain of independent evidence confirms that government’s experiment of sponsoring lotteries and regional casinos is contributing to rising inequality of opportunity in our nation including Vermont.¹⁶ It is harming health, draining wealth from people in the lower ranks of the income distribution, and contributing to economic inequality.¹⁷

Government’s “regulation” of gambling has concentrated commercial gambling in economically-distressed communities, targeting citizens from the lower rungs of the income ladder. Low-income workers, retirees, minorities, and the disabled comprise a disproportionately large share of lottery and regional casino users.¹⁸ The real reason for this is that those who are financially desperate look to government-sponsored gambling as a way to improve their lives and help them escape their financial condition.¹⁹ *It’s become a Hail Mary investment strategy, one that dooms them to inevitable failure.*²⁰ **By targeting the least advantaged, government-sponsored gambling, whether in the form of lotteries, regional casinos or potentially online fantasy sports gambling, adds to the increasingly separate and unequal life patterns in education, marriage, work, and play that now are dividing America into haves and have-nots.**²¹

The Business Practices of “Regulated” Gambling

The almost singular focus of government-“regulated” gambling has been on driving maximum sales and profits. Some examples of the predatory and dishonest practices employed by government- “regulated” gambling in Vermont and across the nation include:

- Most industries and companies are subject to truth-in-advertising laws enforced by the Federal Trade Commission. According to these laws, advertising must be truthful and non-deceptive, advertisers must have evidence to back up their claims, and advertisements cannot be unfair. State-run lotteries, however, have been exempted from these laws. Because of this, state lotteries have wide latitude in how they can promote their product, exaggerate chances of winning, and aggressively lure more of our fellow citizens to lose their money. DFS already follows this state-approved model of misleading promotion.
- State lottery media plans blatantly state that lottery promotions should be timed to coincide with the receipt of government benefits, payroll and Social Security payments.²² If government authorizes DFS, one can predict with certainty that future promotions will follow this parasitic approach.
- Public records requests reveal lotteries openly target minorities and lure young people to gamble for the first time by explicitly developing lottery games and marketing efforts for these constituencies.²³ Likewise, DFS marketing plainly aims at hooking young people.
- Electronic gambling machines, a pillar of government’s “regulated” gambling program, are designed mathematically so users are certain to lose their money the longer they play.²⁴ At the same time, the machines are literally designed so citizens cannot stop using them, exploiting aspects of human psychology and inducing irrational behavior.²⁵ Every feature of a gambling machine - its mathematical structure, visual graphics, sound dynamics, screen ergonomics - is designed to increase a player's "time on device" – which means how long a person plays.²⁶ Online gambling operators share the same aim.
- The image of “responsible gambling” promoted by government gambling “regulators” is a *sham*. The success of commercial gambling enterprises depends upon people not being able to follow so-called responsible gambling guidelines. MIT Professor Natasha Schull reported in her 2012 book *Addiction By Design* that people who follow responsible gambling guidelines made up 75% of the players but contribute a mere 4% of gambling profits.²⁷ “They only bring in 4% of our revenues, the responsible gamblers,” the author of the study said. “If responsible gambling were successful then the industry would probably shut down for lack of income.”²⁸ The revenue model for “regulated” gambling hinges on getting citizens to lose control of themselves, ultimately causing harm to them and the people around them. DFS operators have the same financial motivation to use “responsible” gambling as a façade, while actually taking advantage of those who have become hooked.

- Lotteries invest in sophisticated market research to better target citizens and increase the amount of money they lose on lottery games.²⁹ Government-authorized DFS operators will employ the same kind of state-of-the-art market research to develop the “right” message to susceptible people so they lose even more money.
- Lotteries mail hundreds of thousands of households coupons for free Powerball and instant tickets to introduce gambling games to “infrequent players.”³⁰ Likewise, DFS operators have openly and aggressively lured citizens to their gambling websites with offers that include a “\$200 bonus.”³¹ If allowed to partner with government, these types of DFS promotions incentivizing citizens to gamble will continue like we have seen with lotteries.
- Lotteries offer bonuses to retailers who increase year-over-year gambling revenues by getting citizens to lose more money.³² There is no reason to believe these kinds of lucrative incentives would be prohibited to DFS operators and their staff under a “regulated” system.

Only the uninformed and the willfully ignorant would suggest that government will promote internet gambling in a different, more ethical manner than its track record with lotteries and regional casinos demonstrates.

“You Pay Even if You Don’t Play:” How “Regulated” Gambling Has Led to Higher Taxes for Less Services

For the 2/3 of citizens who never or rarely gamble, state-sponsored gambling is *the biggest* budget gimmick. **The facts show that, where states authorize commercial gambling, *all taxpayers* — including the non-gamblers — end up paying higher taxes for less services and their states end up with worse budget problems over the long term.**³³

This is because casinos and lotteries have proven to be a failed source of government revenue and have not delivered on their promises to fund education, lower taxes, or pay for needed public services. States generally expand gambling operations when tax revenues are depressed by a weak economy, or to pay for new spending programs. Yet income from casinos and lotteries does not tend to grow over time as rapidly as general tax revenue. Expenditures on education and other programs will generally grow more rapidly than gambling revenue over time. **Thus, new gambling operations that are intended to pay for normal increases in general state spending add to, rather than ease, long-term budget imbalances.**³⁴

Conclusion

Because of these facts, we strongly urge you to oppose S. 223 and its lobbying campaign to legalize online fantasy sports gambling in the state.

For more information about online fantasy sports gambling, read SPG's national report ["Use Promo Code INEQUALITY: Inside Online Fantasy Sports Gambling and the Misleading, Unfounded Lobbying Push for 'Government Regulation.'](#)

For additional questions, please contact me at (202) 567-6996. 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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- ¹⁴ *Ibid.*
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