

## **Legality of fantasy sports cuts into industry's expected growth**

Legal questions swirling around fantasy sports companies have taken a big bite out of the industry's growth, an analyst told Massachusetts gambling regulators Thursday.

Chris Grove, a gambling industry analyst and consultant, said daily fantasy sports companies such as DraftKings Inc. of Boston are expected to collect about \$3.1 billion in entry fees. In September, those estimates were about \$3.7 billion — a “pretty dramatic haircut,” Grove told members of the Massachusetts Gaming Commission, which held an informational forum on the industry Thursday.

That sharp drop in the industry's expected growth, estimated by Eilers Research LLC, comes as DraftKings and its main competitor, FanDuel Inc., fight a lawsuit that seeks to have their games declared illegal gambling in New York and deal with broader legal questions about closely how they should be regulated.

New York Attorney General Eric Schneiderman sued Boston-based DraftKings and New York's FanDuel in November, alleging that their fantasy sports contests for cash prizes violate the state's law banning most forms of gambling.

The companies deny wrongdoing, saying their products should be considered legal games that are governed mostly by skill, rather than chance. In fantasy sports, contestants assemble a roster of real-life athletes and score points based on their statistical performance. Prizes can range from a few dollars to more than \$1 million.

A New York judge is expected to rule soon on Schneiderman's request to shut down DraftKings' contests while the lawsuit proceeds. FanDuel previously agreed to suspend its New York contests.

Federal law enforcement officials in Boston, New York, and Florida also are investigating the daily fantasy industry. And the sector is dealing with the possibility of stiffer regulations in various states, including a long list of proposed restrictions from Massachusetts Attorney General Maura Healey.

Governor Charlie Baker and legislative leaders have asked the Gaming Commission to examine how daily fantasy sports might be regulated, following questions about whether the games amount to a form of gambling.

As the commission works on its report, state Attorney General Maura Healey has proposed a wide-ranging set of consumer protection regulations for daily fantasy sports, including a ban on players under 21 and the identification of highly skilled players.

State lawmakers may want to consider broadening state gambling laws to empower some agency — Gaming Commission, the attorney general, or someone else — to address the growth of online gaming, Gaming Commission chairman Stephen Crosby said Thursday.

Under current law, the commission is allowed to regulate only casino gambling in Massachusetts, while Healey is tasked with creating broad consumer protection regulations. That leaves the state in a position of having to tackle similar questions about new gaming technologies every time they emerge, Crosby said.

“You could put all of that together into one package and then empower somebody . . . to be able to manage the oversight of all of these in one fell swoop, rather than having to do them all as one-offs,” Crosby said.

DraftKings and FanDuel representatives repeated the companies' general support for Healey's approach, which would keep their games legal in Massachusetts, even though they don't agree with each detail of the regulations.

At Thursday's hearing, DraftKings product management director Zakary Cutler said the company has made significant strides in its consumer protection and regulatory safeguards as the company has grown quickly in just a few years.

The company recently augmented the software tools it uses to determine a player's location and thwart common approaches for disguising a person's location online. DraftKings and FanDuel do not offer paid contests in six states where gambling laws are considered too strict.

Cutler said DraftKings also has improved its ability to verify players' ages. In the past, the company collected birthdates and tried to verify them through third parties after the fact, he said.

"Now, as soon as you sign up, you're required in real time, before depositing, to enter all of this information. And in the background we run a check with a third party," Cutler said. "When we were a smaller company, it was easier to do this more manually and retroactively. But now, at such high volumes, we do this right up front."

*By: Curt Woodward*