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The Dangers of Legalized Sports Betting and Fantasy Sports

BY [BENJAMIN SCHONBRUN](#) / ON OCTOBER 6, 2019



Many states across the country have either allowed or are drafting legislation to allow for legal sports betting.^[1] Under the Professional and Amateur Sports Protection Act (PASPA) of 1992, sports gambling was prohibited under federal law.^[2] On May 14, 2018, the Supreme Court struck down PASPA as illegally commandeering the states, paving the way for states to legalize sports betting.^[3]

Wagering money on sports has never been more popular.^[4] Fantasy sports^[5] has significantly increased in popularity in recent years. Fantasy players, across the country, participate in fantasy leagues in all the four major professional sports.^[6] These leagues are generally privately run, season-long leagues which start and end with the respective professional league's season. The immense popularity of fantasy sports has spawned dozens of daily fantasy leagues.^[7] Participation in these leagues are done via websites and apps, such as DraftKings and FanDuel, where players can draft a lineup for a particular day.

Questions were raised when daily fantasy leagues sprung up regarding the legality of these sites.^[8] The argument put forward was that they were offering illegal sports gambling.^[9] The

sites countered that by “playing” in these leagues, users were just participating in a game of skill.[\[10\]](#) Lawsuits were brought in countless states.[\[11\]](#) Leading the charge was the Attorney General of New York, Eric Schneiderman, who, in 2015, ordered daily fantasy sites to stop taking money from New York residents, because it was illegal gambling.[\[12\]](#) On October 26, 2018 the New York Supreme Court held that the exception for interactive fantasy sports under the Racing, Pari-Mutuel Wagering and Breeding Law[\[13\]](#) violated the NY state constitution, as it is considered illegal gambling.[\[14\]](#) Daily fantasy sites can continue to offer their services in New York as the state appeals the decision.[\[15\]](#)

Legal Sports Betting Risks

The thrill of having money in on the game led many to call for sports betting to be legalized. Congress enacted PASPA in part to protect the integrity of the professional sports industry.[\[16\]](#) Professional sports over the years have been affected by tremendous gambling scandals. Major League Baseball has had two notorious incidents. The first was the infamous Black Sox scandal of 1919, where star players took money to throw the World Series,[\[17\]](#) which led to the banishment of 8 players from the MLB for life.[\[18\]](#) The second involved Pete Rose, the MLB’s all-time hits leader, who is banned for life from the MLB for wagering on games as a player and manager.[\[19\]](#) In 2007, the NBA dealt with its own major gambling scandal, when NBA referee Tim Donaghy plead guilty to federal conspiracy charges for providing inside information to a professional gambler in return for cash.[\[20\]](#) The legalization of sports betting and the availability of daily fantasy sports will bring with it the dangers that players may bet on games and damage the integrity of the sport, since history has shown gambling to have occurred in professional sports before. Additionally, the lure of legal sports betting places athletes in a precarious position by having forbidden fruit dangled in front of them by being both widely discussed and easily accessible.

Notably, in the years since PASPA has been in force, illegal gambling has become a multi-billion-dollar industry.[\[21\]](#) So the question is, if it was occurring anyways would it not be better to legalize and regulate it? The first major sports league figure to come out in favor of legal sports betting was NBA Commissioner Adam Silver in 2014.[\[22\]](#) The other leagues have followed suit as they now see a chance to gain a share in the revenue. The states see legalization as an opportunity to gain significant sums through legalization and regulation, as the illegal sports betting has reached over a \$150 billion annually.[\[23\]](#)

All the arguments in favor of legalization sound strong. But there are dangers that may flow from the legalization of sports betting and fantasy sports. Sports entertainment holds a really important place in American culture. The easy access athletes may now have to place a sports wager may present fears of games being thrown. What once required a player to really go out of their way to illegally place a bet on a game, is now in their face openly discussed in the media and available on their handheld devices. The professional leagues have rules in place that players may not gamble on the sport. Additionally, the leagues have rules regarding its

players participating in fantasy leagues. The MLB forbids its players from participating in daily fantasy leagues.^[24] NFL players and personnel may play fantasy sports but not win more than \$250.^[25] Though what is not taken into account is that many people including professional athletes play fantasy sports for bragging rights and pride, that can also place pro sports in danger of a game potentially being impacted.

There is also a significant danger is to the average individual and to the youth. Gambling can become a dangerous addiction.^[26] The availability of legal sports betting will instill addictive gambling tendencies in the youth.^[27] These are the same fears that helped get PASPA passed, and they remain the same today. There are people who were suffering with gambling addictions before the legalization. For sports-fans it is really dangerous as people will place bets on sports thinking they have an edge with their sports knowledge.^[28] This will lead to lots of people gambling away all they have on sports. Which may end up bankrupting many and lead people into debt.^[29]

In summary, the Supreme Court's decision may be a cause for celebration for many in the sports community. Additionally, playing fantasy sports can be really fun, but society shall be aware that there are still issues left to be concerned about.

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^[1] See Trulioo, *States That Allow Sports Betting – 2019* (Aug. 21, 2019), <https://www.trulioo.com/blog/states-sports-betting/>.

^[2] 28 U.S.C. § 3702 (2009)

^[3] See *Murphy v. NCAA*, 138 S. Ct. 1461 (2018).

^[4] See Chris Murphy, *NRG poll sheds new light on popularity of US sports betting*, SBCAmericas.com (Jun. 12, 2018), <https://sbcamericas.com/2018/06/12/nrg-poll-sheds-new-light-popularity-us-sports-betting/>.

^[5] Fantasy sports are sporting contests in which individuals join personal or public leagues of varying sizes. The league follows along with the sports season. There are leagues for all the major sports. Participants participate in a draft before the season where all the players from that sport are placed in a pool and individuals select players to be on their respective teams. Fantasy players accumulate points based on the statistics the players on their teams put up in the "regular" game they play in that sport.

[6] The four major sports are generally a reference to the NFL (American Football); NHL (Hockey); MLB (Baseball) and the NBA (Basketball).

[7] See *List of Daily Fantasy Sports Sites*, Play Daily Fantasy Sports (Feb. 29, 2019), <http://www.playdailyfantasysports.com/list-of-daily-fantasy-sports-sites/>.

[8] Maxine Bernstein, *Lawsuit claims fantasy sports websites FanDuel, DraftKings violate Oregon law*, The Oregonian/OregonLive, (Jan. 26, 2016 updated Jan. 9, 2019), https://www.oregonlive.com/pacific-northwest-news/2016/01/lawsuit_claims_fantasy_sports.html.

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] See Drew Olanoff, *NY State Rules Daily Fantasy Illegal, Ordering FanDuel and DraftKings to Stop Taking Bets*, TechCrunch (Nov. 10, 2015), <https://techcrunch.com/2015/11/10/ny-attorney-general-rules-daily-fantasy-sports-illegal-orders-sites-to-cease-and-desist>.

[13] See N.Y. Rac. Pari-Mut. Wag. & Breed. Law § 1401 (McKinney).

[14] *White v. Cuomo*, 87 N.Y.S.3d 805 (N.Y. Sup. Ct. 2018).

[15] See Dan M. Clark, *Decision Striking Down Daily Fantasy Sports Regs in NY Headed for Appeal*, N.Y. Law Journal (Nov. 28, 2018), <https://www.law.com/newyorklawjournal/2018/11/28/decision-striking-down-daily-fantasy-sports-regs-in-ny-headed-for-appeal/>.

[16] See *supra* note 2.

[17] *Black Sox Scandal*, Baseball Reference (Mar. 22, 2019), https://www.baseballreference.com/bullpen/Black_Sox_Scandal.

[18] *Id.*

[19] See Murray Chass, *Rose, in Deal, Is Said to Accept Lifetime Ban for Betting on the Reds*, N.Y. Times, (Aug. 24, 1989), <https://www.nytimes.com/1989/08/24/sports/rose-in-deal-is-said-to-accept-lifetime-ban-for-betting-on-reds.html>.

[20] See Robin Shulman & William Branigin, *Donaghy Pleads Guilty in Scandal*, Wash. Post (Aug. 16, 2007), <http://www.washingtonpost.com/wp-dyn/content/article/2007/08/15/AR2007081500300.html>.

[21] See *97% of Expected \$10 Billion Wagered on March Madness to be bet Illegally*, American Gaming Ass'n (Mar. 12, 2018), <https://www.americangaming.org/new/97-of-expected-10-billion-wagered-on-march-madness-to-be-bet-illegally/>.

[22] See Adam Silver, *Legalize and Regulate Sports Betting*, N.Y. Times (Nov. 13, 2014), <http://www.playdailyfantasysports.com/list-of-daily-fantasy-sports-sites/>.

[23] See *supra* note 16.

[24] See Dan Rovell, *MLB, Union Prohibit Players from Daily Fantasy Games*, ESPN (Apr. 10, 2015), https://www.espn.com/mlb/story/_/id/12661248/major-league-baseball-forbids-players-participate-daily-fantasy-games.

[25] See Mike Florio, *NFL players can play daily fantasy, they just can't win much*, ProFootballTalk (Sept. 29, 2015), <https://profootballtalk.nbcsports.com/2015/09/29/nfl-players-can-play-daily-fantasy-they-just-cant-win-much/>.

[26] Josh Peter, *Sports betting ruling will lead to costly rise in gambling addiction, experts warn*, USA Today Sports, (May 14, 2018), <https://www.usatoday.com/story/sports/2018/05/14/sports-betting-rise-gambling-addiction/608989002/>.

[27] Phil Ciciora, *Expert: Legal sports betting will have a destabilizing effect on economy, sports*, Illinois News Bureau (May 15, 2018), <https://news.illinois.edu/view/6367/650811>.

[28] See *id.*

[29] *id.*