

# SENATE BILL REPORT

## SB 5169

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As of January 17, 2017

**Title:** An act relating to fantasy sports contests.

**Brief Description:** Classifying fantasy sports contests as contests of skill.

**Sponsors:** Senator Ericksen.

**Brief History:**

**Committee Activity:** Commerce, Labor & Sports: 1/18/17.

**Brief Summary of Bill**

- Provides that fantasy competitions are considered games of skill and not gambling for purposes of the Gambling Act.
- Defines fantasy competitions.
- Provides certain conditions regarding prizes and the determination of the contest winner.

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### SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

**Staff:** Susan Jones (786-7404)

**Background:** Federal Law and Fantasy Sports. In 2006, Congress passed the Unlawful Internet Gambling Enforcement Act (UIGEA) prohibiting most types of online gambling in the US. UIGEA prohibits gambling businesses from knowingly accepting payments in connection with the participation of another person in a bet or wager that involves the use of the Internet and that is unlawful under any federal or state law. The term bet or wager excludes fantasy sports competitions, which is defined and meets certain conditions.

The Professional and Amateur Sports Protection Act (PASPA), enacted in 1992, prohibits government entities and people from sponsoring, operating, advertising, or promoting any gambling operation based directly or indirectly on one or more competitive games in which amateur or professional athletes participate, or on one or more performances of those amateur or professional athletes in those games. PASPA contains a grandfather clause exempting

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states with pre-existing sport wagering laws. No court has ruled on PASPA's application to fantasy sports competitions.

Fantasy Sports - In General. A fantasy sports competition is a game where participants construct a team that competes against other fantasy owner's teams using statistics generated by real life individual players or teams. There are many variations of scoring and league structure, but they are generally based on the real life statistical performance. In the US, the most common fantasy sports are baseball, football, basketball, golf, hockey, and auto racing. Fantasy sports competitions vary in length and may last a season, a week, or a day.

Washington Law. The Washington State Constitution prohibits all forms of gambling unless specifically authorized by statute. Under the Gambling Act, gambling means staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, with an agreement or understanding that the person will receive something of value in the event of a certain outcome. However, there are exceptions.

The Legislature has not authorized fantasy sports competitions. The Washington State Gambling Commission (WSGC) has a brochure on sports wagering that addresses fantasy sports as being illegal and prohibited. The prohibition of fantasy sports in Washington is based on the definition of a game of chance and on the prohibition on transmitting gambling information over the phone or Internet. In addition, the WSGC studied the issue and prepared a report on fantasy sports.

Under the Gambling Act, a person who engages in or knowingly causes, aids, abets, or conspires with another to engage in professional gambling is guilty of a gross misdemeanor or felony, depending on the circumstances. Engaging in professional gambling includes:

- acting other than as a player, and knowingly engaging in conduct that materially aids any form of gambling activity;
- paying a fee to participate in a card game, contest of chance, lottery, or other gambling activity;
- acting other than as a player, and knowingly accepting or receiving money or other property pursuant to an agreement or understanding with any other person whereby the person participates, or is to participate, in the proceeds of gambling activity;
- engaging in bookmaking; or
- conducting a lottery.

Also, a person who knowingly transmits or receives gambling information by phone or the Internet is guilty of a class C felony.

**Summary of Bill:** Fantasy competitions are considered games of skill and not gambling for purposes of the Gambling Act. Fantasy competitions are any fantasy or simulated sports game or educational game or contest that involves a fantasy team not based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions:

- all prizes offered to winners are known in advance of the game and the value of the prizes is not determined by the number of participants or the amount of any fees paid by participants;

- all winning outcomes reflect the participant's relative knowledge and skill and are determined mostly by accumulated statistical results of individuals' performance in multiple real world sporting or other events; and
- a winning outcome is not based (1) on the score, point spread, or performance of any single real world team or any combination of teams; or (2) solely on any single performance of an individual athlete in any single real world sporting or other event.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.