



An Overview of Fantasy Contests in the Commonwealth

6/17/24

Virginia's Fantasy Contests

- Authorized by the Fantasy Contests Act passed in 2016
- Regulated by the Department of Agriculture and Consumer Services (“VDACS”)
- Fantasy Contest Operators required to register VDACS (must renew annually)
 - \$8,300 registration fee
- No tax rate
- Fantasy Contest Players must be 18+ to participate
- 17 Operators are registered by VDACS
 - Boom Fantasy, Splash Sports, DraftKings, FanDuel, FFPC, No House Advantage, OwnersBox 3.0, ParlayPlay Fantasy, RealTime Fantasy Sports, SCHLEP Games, PrizePicks, Sleeper, CDM Sports/NFBC, StatHero, Underdog Fantasy, PlaySqor and Yahoo Fantasy Sports

Virginia's "Fantasy Contest" Definition

- *"Fantasy contest" includes any online fantasy or simulated game or contest with an entry fee in which...*
 - (i) *the value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the contest;*
 - (ii) *all winning outcomes reflect the relative knowledge and skill of the participants and shall be determined by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and*
 - (iii) *no winning outcome is based on the score, point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event.*

Fantasy Contests or Sports Wagering?

- Several Fantasy Contest Operators in the Commonwealth offer fantasy contests they describe as “pick’em-style” contests.
 - The operators of such contests typically offer the customer a defined selection of athletes, each of whom is assigned a target outcome for a certain statistical category, such as passing yards or receiving yards in football.
 - To play, the customer selects at least two athletes from a list and takes a wager on whether each selected athlete will achieve a given statistical outcome in a specified sporting event.
 - The more athletes a customer selects, the higher the multiplier for the prize payout.
 - There is no set wager amount or set entry fee for the contest; rather the customer inputs the amount he or she wishes to wager, and a winning wager receives the sum of the wager times the multiplier if all aspects of the wager are correct.
 - **The contests are single-player games and customers do not compete against other players, but instead against metrics established by the operator ("the House").***

** Description adapted from VA AG Opinion 23-058*

Cause for Confusion?



SAME GAME PARLAY

× **SGP 2 Picks** **+240**

SF 49ers @ KC Chiefs (Feb 11th) \$ Payout: \$34.00

× **Over 90.5**
Christian McCaffrey Rushing Yards
SF 49ers @ KC Chiefs

× **Over 260.5**
Patrick Mahomes Passing Yards
SF 49ers @ KC Chiefs

ADD PICKS **+ TURN TO SGPX**



2 Betslip **CLOSE**
BALANCE: \$994.19

SGP San Francisco 49ers @ Kansas City Chiefs **CASH OUT +223**
2 SELECTIONS FEB 11, 6:35 PM ET

Patrick Mahomes Over 262.5
PATRICK MAHOMES - PASSING YDS

Christian McCaffrey Over 90.5
CHRISTIAN MCCAFFREY - RUSHING YDS

SGP 2 leg Same Game Parlay™ **+223**
CASH OUT

WAGER TO WIN



Current Entry 2 Players Selected **CLEAR**

Patrick Mahomes ×
NFL KC - QB
Sun, Feb 11 8:30 PM
vs SF
260.5 Pass Yards **MORE** **LESS**

Christian McCaffrey ×
NFL SF - RB
Sun, Feb 11 8:30 PM
vs KC
90.5 Rush Yards **MORE** **LESS**

PAYOUTS

Power Play™ ✓
You must hit 2 out of 2 in the entry.
2 correct **3X**

Entry **To Win**

Cause for Confusion?

Sports Betting

DRAFTKINGS SPORTSBOOK

SAME GAME PARLAY

× **SGP 2 Picks** **+240**

SF 49ers @ KC Chiefs (Feb 11th) \$ Payout: \$34.00

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Christian McCaffrey Rushing Yards
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× **Over 260.5**
Patrick Mahomes Passing Yards
SF 49ers @ KC Chiefs

ADD PICKS **+ TURN TO SGPX**

FANDUEL SPORTSBOOK

2 Betslip **Close**
BALANCE: \$994.19

SGP San Francisco 49ers @ Kansas City Chiefs **CASH OUT +223**
2 SELECTIONS FEB 11, 6:35PM ET

Patrick Mahomes Over 262.5
PATRICK MAHOMES - PASSING YDS

Christian McCaffrey Over 90.5
CHRISTIAN MCCAFFREY - RUSHING YDS

SGP 2 leg Same Game Parlay™ **+223**
CASH OUT

WAGER TO WIN

PRIZEPICKS

Current Entry 2 Players Selected **Clear**

Patrick Mahomes ×
NFL KC - QB
Sun, Feb 11 8:30 PM
vs SF
260.5 Pass Yards **MORE** LESS

Christian McCaffrey ×
NFL SF - RB
Sun, Feb 11 8:30 PM
vs KC
90.5 Rush Yards **MORE** LESS

PAYOUTS

Power Play™ ✓
You must hit 2 out of 2 in the entry.
2 correct **3X**

Entry **To Win**

Fantasy Contest

Virginia's Fantasy Contest Confusion

- The offering of **against-the-house** “pick'em-style” games has the potential to confuse Virginians, which has led to legislators being unclear of whether Virginia law allows these Fantasy Contest Operators to offer what some could describe as “proposition parlays,” a wager type traditionally offered by Sports Betting Operators.
- Because of this potential confusion, Fantasy Contest Operators in the Commonwealth have been able to offer what some could describe as sports betting – including Virginia's Attorney General.
- If that is indeed the case, it allows these Fantasy Contest Operators to offer sports betting products through their fantasy registrations. This means a Fantasy Contest Operator could offer a sports wagering product without paying sports betting license fees and taxes, and without adhering to sports betting age and wagering restrictions – like in-state college wagering and college proposition bet prohibitions.

Virginia AG Opinion 23-058

- “It is my opinion that, because fantasy contests require multiple customers competing against each other, a gambling arrangement that involves customers betting on athletes’ performance metrics against an operator’s established baseline, and not other contest participants, constitutes sports betting as defined in Virginia Code § 58.1-4030...”*

To date based on publicly available information, despite the AG’s opinion, neither VDACS nor the Lottery have enforced the legal position of the Commonwealth, and several Fantasy Contest Operators continue to offer *against-the-house* “pick’em-style” contests today.



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Jason S. Miyares
Attorney General

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202 North Ninth Street
Richmond, Virginia 23219
804-786-2071
Fax 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

The Honorable Wren M. Williams
Member, House of Delegates
Post Office Box 192
Stuart, Virginia 24171

Dear Delegate Williams:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You inquire regarding the proper classification of a gambling scenario that involves customers of online contest operators placing bets on the performance metrics of specific athletes. You specifically ask whether an arrangement involving only a single customer constitutes a “fantasy contest” or “sports betting” under Virginia law.

Response

It is my opinion that, because fantasy contests require multiple customers competing against each other, a gambling arrangement that involves customers betting on athletes’ performance metrics against an operator’s established baseline, and not other contest participants, constitutes sports betting as defined in Virginia Code § 58.1-4030.

Background

You relate that various online contest operators offer online gambling contests to customers within the Commonwealth. You inquire regarding contests that are marketed as “fantasy games” and commonly known as a “pick’em-style” fantasy contest or an “over/under player prop pick’em” game. The operator of such games typically offers the customer a defined selection of athletes, each of whom is assigned a target outcome for a certain statistical category, such as passing yards or receiving yards in football. To play, the customer selects at least two athletes from the list and takes a wager on whether each selected athlete will achieve a given statistical outcome in a specified sporting event. The more athletes a customer selects, the higher the multiplier for the prize payout. There is no set wager amount or set entry fee for the contest; rather the customer inputs the amount he wishes to wager, and a winning wager receives the sum of the wager times the multiplier if all aspects of the wager are correct. The contests are single player games and customers do not compete against other players, but instead against metrics established by the operator (“the house”).

Virginia AG's Opinion is not unique

- Several states have seen updates related to **against-the-house** “pick'em-style” products, including but not limited to:
 - In March 2022, the **Maryland** Lottery and Gaming Control Agency sent a letter to all registered fantasy sports operators in the state explaining that fantasy competitions in which players compete against the fantasy operator instead of other players are not compliant with Maryland law.
 - In October 2023, the **Maine** Gambling Control Unit issued a judgment against a fantasy contest operator and ordered the operator to immediately cease and desist offering its against-the-house “pick'em-style” product in the state. That operator was fined \$392,000.
 - In October 2023, the **New York** State Gaming Commission adopted regulations prohibiting contests based on proposition betting or contests that have the effect of mimicking proposition betting. A fantasy contest operator paid a \$15 million settlement.

Questions?