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California State Senate

SENATOR
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October 5, 2023

Marc J. Nolan
Senior Assistant Attorney General
Opinion Unit, Dept. of Justice
300 South Spring Street
Los Angeles, CA 90013

Dear Mr. Nolan,

I write to request a legal opinion as to whether California law prohibits the offering and operation of daily fantasy sports betting platforms with players physically located within the State of California, regardless of whether the operators and associated technology are located within or outside of the State.

Pursuant to California law, no one may operate “any game of chance” without the required federal, state, and local licenses.”¹ No one has “the right to operate a gambling enterprise except as may be expressly permitted by the laws of this state and by the ordinances of local governmental bodies.”¹

In 2022, California voters overwhelmingly rejected Proposition 27 to legalize online sports wagering. Although sports wagering in all forms remains illegal in California, online daily fantasy sports betting is proliferating throughout the state. Through these online platforms, a participant pays to enter a contest in which they may win a prize depending on how well athletes perform. Although the participant may utilize their knowledge of a particular sport in choosing their “team” of players, how well those players perform during a game is completely out of the participant’s control. As such, daily fantasy sports appears to be a game of chance not otherwise permitted by the laws of California.¹

Thank you for considering my request for a legal opinion on this matter. If you have any questions, please contact my Chief of Staff, Eileen Ricker at 916-651-4021 or via email at eileen.ricker@sen.ca.gov.

Sincerely,

Senator Scott Wilk
21st Senate District

¹ Cal. Penal Code § 337j

² Cal. Bus. & Prof. Code § 19801(d)

³ *Id*