

GREEN SHEET REDIGEST

HB 459

2019 Regular Session

Talbot

GAMING: Provides relative to fantasy sports contests

DIGEST

Present law provides for the "Louisiana Fantasy Sports Contests Act", which called for a proposition election held on November 6, 2018, to determine whether fantasy sports contests were to be permitted in a particular parish.

Present law provides for a definition of "fantasy sports contests", which means any fantasy or simulation sports game or contest played through the internet or mobile device with all of the following elements:

- (1) Participants create a simulation sports team based on the current membership of actual amateur or professional sports organizations.
- (2) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest, and the value of the prizes or awards is not determined by the number of participants or the amount of any fees paid by those participants.
- (3) All winning outcomes reflect the relative knowledge and skill of the participant and are predominantly determined by accumulated statistical results of the performance of the individuals, including athletes in the case of sporting events.
- (4) No winning outcome is based on either of the following:
 - (a) On the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams.
 - (b) Solely on any single performance of an individual athlete in any single real-world sporting or other event.

Proposed law retains present law and adds definitions for the terms "confidential information", "entry fee", "fantasy sports contest operator", "fantasy sports contest player", "gross fantasy sports contests revenues", "location percentage", and "net revenue".

Present law authorizes the Louisiana Gaming Control Board to adopt rules in accordance with the Administrative Procedure Act to implement, administer and regulate fantasy sports contests.

Proposed law provides that the rules shall include;

- (1) The issuance of any license, contract, or permit, subject to regulation of the board.
- (2) The methods of and forms and procedures for making an application for a license, contract, or permit to be considered by the board.
- (3) The methods of and forms for providing to the board information concerning a person's family, habits, character, associates, criminal record, business activities, and financial affairs.
- (4) Enforcement of the law regarding fantasy sports contests, gaming laws administered by the board, and rules of the board, including imposition and collection of fines, penalties, and other sanctions which may be imposed by the board against an operator or any other licensee or permittee of the board.

- (5) A procedure requiring the withholding of winnings of persons who have outstanding child support arrearages or owing child support overpayments. Winnings shall only include payments for which the operator licensed under proposed law is required to file form W2-G, or a substantially equivalent form, with the United States Internal Revenue Service.

Proposed law authorizes the board to assess and collect fees as necessary to defray administrative costs associated with the application and for the investigation, granting, or renewal of licenses and permits.

Proposed law requires a fantasy sports contest operator to be licensed by the La. Gaming Control Board. Provides that a fantasy sports contest operator must:

- (1) Be a person domiciled in Louisiana or a domestic business entity with a certificate of existence from the Secretary of State and in good standing or a foreign corporation with a certificate of authority to transact business in the state from the Secretary of State and in good standing.
- (2) Demonstrate to the La. Gaming Control Board that the operator is suitable for licensing pursuant to present law.

Proposed law provides that any fantasy sports contest operator that allows its license to lapse, without requesting an extension of time to file for a renewal, is required to resubmit an initial application for licensure. Further prohibits the transfer of a fantasy sports contest operator's license.

Proposed law requires the board to issue or deny a fantasy sports contest operator's license within 60 days of receipt of application for licensure. Provides that the board shall provide an operator with specific reasons if a license is not issued. Prohibits the transfer of a fantasy sports contest operator's license.

Proposed law provides that as a condition of licensure, a fantasy sports contest operator is required to submit evidence to the board that the operator has established and will implement certain commercially reasonable procedures for fantasy sports contests which include but are not limited to:

- (1) Prevent employees of the fantasy sports contest operator, and relatives of an employee living in the same household as an employee of an operator, from competing in fantasy sports contests offered by an operator in which the operator offers a cash prize to the general public.
- (2) Prevent sharing of confidential information that could affect fantasy sports contests with third parties until the information is made publicly available.
- (3) Provide that no winning outcome is based on the score, point spread, or any performance of any single actual sports team or combination of such teams or solely on any single performance of an individual athlete or participant in any single actual sporting event.
- (4) Ensure that any athletes and individuals who participate in or officiate a game or competition that is the subject of a fantasy sports contest or any sports agent, team employee, referee, or league official associated with a sport or athletic event do not participate in fantasy sports contests
- (5) Verify that a fantasy sports contest player is 21 years of age or older.
- (6) Provide fantasy sports contest players with access to information on responsible play.
- (7) Provide fantasy sports contest players with access to information on seeking assistance regarding compulsive or problem gambling.

- (8) Provide fantasy sports contest players with access to the fantasy sports contest player's play history and account details.
- (9) Allow individuals to restrict themselves from entering a fantasy sports contest upon request and provide reasonable steps to prevent the person entering fantasy sports contests offered by an operator.
- (10) Disclose the limit on the number of entries that a fantasy sports contest player may submit in a fantasy sports contest and provide reasonable steps to prevent players from submitting more than the limit.
- (11) Segregate fantasy sports contest player funds from operational funds or maintain a reserve that exceeds the amount of player funds on deposit, which may not be used for operational activities. Provides that reserve funds may take the form of cash, cash equivalents, payment process reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof, in the amount that must exceed the total balances of the fantasy sports contest players' accounts.

Proposed law prohibits fantasy sports contests operators from offering fantasy sports contests based on the performances of participants in high school or youth athletic events.

Proposed law requires a licensed fantasy sports contest operator to:

- (1) Annually contract with a certified public accountant to conduct an audit that is consistent with the standards accepted by the American Institute of Certified Public Accountants.
- (2) Submit to the board a copy of the audit report.

Proposed law prohibits any person licensed pursuant to proposed law, or any agent or employee thereof, from allowing a person under the age of 21 to be a fantasy sports contest player and from allowing a person to participate in a fantasy sports contest in a parish in which a majority of the qualified electors in the parish voting on the proposition to authorize fantasy sports in the parish voted against the proposition. Proposed law requires the licensee to withhold the winnings of such persons. Proposed law further provides for the imposition of civil penalties and authorizes license revocation for licensees who violate this proposed law prohibition.

Proposed law requires periodic reporting of gross and net revenue and financial statements regarding its operations in Louisiana.

Proposed law requires the Department of Children and Family Services annually report to the House committee on Civil Law and Procedure and the Senate committee on Judiciary A on the interception and seizure of gaming winning for the payment of child support and overpayment owed to the department.

Proposed law provides general authority for the board to adopt a schedule of civil penalties for a violation of proposed law and authority to impose the penalty. Provides that a civil penalty shall not exceed \$50,000 for each violation. Provides a process for determining a violation. Provides that payment of a civil penalty shall be a requirement for retention of a permit or license. Provides that if an operator contests the imposition of the civil penalty, there shall be an adjudicatory hearing on the matter.

Proposed law provides criteria for the revocation or suspension of a license. The criteria includes:

- (1) Failure to meet the requirements of suitability.
- (2) Failure to meet the requirements for the issuance of a license.

- (3) Repeat violations of proposed law or rule of the board. "Repeat violations" is defined as three violations of the same law or rule which has occurred on separate occasions by the same operator within a one-year period.

Proposed law authorizes the board to impose a fine or reach a settlement agreement with the operator in addition to or in lieu of revocation or suspension of a license. Limits suspension of a license to 30 days.

Proposed law authorizes the division of state police to conduct investigations, hearings and inquiries as it deems necessary to fulfill its responsibilities. Authorizes the suspension of a license prior to hearing if there is a written finding of danger to public health and welfare.

Proposed law provides that as a condition of receiving a license, an operator agrees that the division and its agents and employees shall have unrestricted access and the right to inspect any premises under the control of the operator in which any activity relating to the provisions of proposed law is conducted.

Proposed law, regarding active accounts, requires an operator to:

- (1) Limit each authorized player to one active and continuously used account.
- (2) Publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any contest or platform. Requires procedures to include a toll-free number to call for help in establishing such parental controls.
- (3) Make clear conspicuous statements that are not inaccurate or misleading concerning the chances of winning and the number of winners when referencing the chances or likelihood of winning.
- (4) Permit any authorized player to permanently close an account registered to the player, on any and all platforms supported by the operator or registrant, at any time and for any reason.
- (5) Identify all highly experienced players in any contest by a symbol attached to the players' username, or by other visible means, on all platforms supported by the operator or registrant.
- (6) Disclose the number of entries a single authorized player may submit to each contest.
- (7) Disclose the maximum number of total entries allowed for each contest.
- (8) Implement measures to protect the privacy and online security of authorized players, their account, and their personal financial information.

Proposed law prohibits an operator from charging players for inactive accounts. Provides that an operator shall only charge players for entry fees placed or contests entered.

Effective July 1, 2019.

(Amends R.S. 27:302 and 304; Adds R.S. 27:306-316)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Remove proposed law language that a fantasy sports contest operator may offer fantasy sports contests during the time its application for licensure is pending before the La. Gaming Control Board.

2. Require the fantasy sports contest operator to demonstrate to the La. Gaming Control Board that the operator is suitable for licensing pursuant to present law.
3. Remove proposed law language requirement that the fantasy sports contest operator pay a fee.
4. Remove proposed law language that provides that a fantasy sports contest operator's license is transferable.
5. Raise the age of a fantasy sports contest player from 18 to 21.
6. Provide that fantasy sports contests are to be conducted in a venue where the fantasy sports contest player must be at least 21 years of age.
7. Add an exception to the Public Records Law.
8. Remove proposed law civil penalties for fantasy sports contest operators.
9. Make technical corrections.

The House Floor Amendments to the engrossed bill:

1. Remove proposed law provision that provides that a fantasy sports contest operator's application for licensure shall be confidential and not subject to the Public Records Law.
2. Remove proposed law provision that provides that certain evidence submitted by a fantasy sports contest operator to the La. Gaming Control Board shall be confidential and not subject to the Public Records Law.
3. Remove these provisions of proposed law from the exceptions to the Public Records Law.

The House Floor Amendments to the reengrossed bill:

1. Remove proposed law requirement that fantasy sports contests be conducted in a venue where fantasy sports contest players must be at least 21 years of age.
2. Prohibit the transfer of a fantasy sports contest operator's license.
3. Provide for the imposition of civil penalties and authorize license revocation under certain circumstances for licensees that allow persons under the age of 21 to be a fantasy sports contest player and that allow a person to participate in a fantasy sports contest in a parish in which a majority of the qualified electors in the parish voted against authorizing fantasy sports contests in the parish.
4. Add that it is the intent of the legislature that there shall be no tax levied on the net revenue of fantasy sports contests in the state. Further provide that this provision shall become effective only if neither House Bill No. 495 nor House Bill No. 600 of the 2019 R.S., which levy a tax on net gaming proceeds of fantasy sports contests, are enacted and become effective.
5. Change the effective date from upon signature of the governor to July 1, 2019.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the re-engrossed bill

1. Adds requirements to be included in the rules adopted by the board.
2. Adds authority for the board to assess and collect fees to cover administrative costs.
3. Adds an individual and a domestic business entity to the qualification for a license and that the businesses be in good standing.
4. Adds requirement that operators report certain financial information periodically to the board.
5. Adds requirement for DCFS to report to legislative committees on interception and seizure of winnings for outstanding child support payments or overpayments.
6. Adds general authority for the board to adopt a schedule of civil penalties for violations of proposed law and to impose the penalty.
7. Adds authority and criteria for the revocation or suspension of a license.
8. Adds authority for the division of state police to conduct investigations, hearings, and inquiries and to suspend a license before a hearing in certain situations.
9. Adds requirement that an operator agree to unrestricted access by the division as a condition of receiving a license.
10. Adds limitations on active accounts that operators are required implement.
11. Adds provisions prohibiting an operator from charging a player for an inactive account.
12. Removes provisions regarding legislative intent not to tax net revenue of fantasy sports contests.