

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 459

2019 Regular Session

Talbot

GAMING: Provides relative to sports gaming

Synopsis of Senate Amendments

1. Relative to fantasy sports, does all of the following:
 - (a) Mandates that certain requirements be included in the rules adopted by the La. Gaming Control Board (board), including but not limited to methods, forms, and procedures for making an application for a license, contract, or permit and a procedure for withholding winnings of persons who have outstanding child support payments.
 - (b) Requires a fantasy sports contest operator (operator) to be a person domiciled in the state 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.
 - (c) Requires operators to report certain financial information periodically to the board.
 - (d) Adds a requirement for the Dept. of Children and Family Services to report to certain legislative committees on the interception and seizure of gaming winnings for outstanding child support payments or overpayments.
 - (e) Requires an operator to pay any civil penalties in order to retain any permit or license and provides that the failure to pay such penalties results in the shutdown of the platform of the fantasy sports contest operator.
 - (f) Adds general authority for the board to revoke or suspend a license including the authority to revoke a license for allowing a person under 21 or a person from a prohibited parish to be a fantasy sports contest player.
 - (g) Adds authority for the division of state police to conduct investigations, hearings, and inquiries, and to suspend a license prior to a hearing in certain situations.
 - (h) Prohibits an operator from charging players for inactive accounts.
 - (i) Removes proposed law provision regarding legislative intent on the taxation of fantasy sports contest revenue.
 - (j) Provides for the contingent effectiveness of fantasy sports only if House Bill No. 600 of the 2019 R.S., relative to the taxation of fantasy sports contest revenue, is enacted.

2. Incorporates the Reengrossed version of Senate Bill No. 153 of the 2019 R.S. which does the following:
 - (a) Requires an election to authorize sports wagering.

- (b) Provides relative to the issuance of sports wagering service provider permits.
- (c) Provides for the powers and authorities of the board with respect to sports wagering.
- (d) Provides relative to the time period for claiming winnings.
- (e) Enacts The Louisiana Sports Wagering Control Act and provides definitions for purposes of the Act.
- (f) Prohibits certain persons from participating in sports wagering, including any person under the age of 21.
- (g) Provides for the dedication of sports wagering proceeds.
- (h) Provides exceptions to present law crimes that prohibit gambling for sports wagering conducted pursuant to proposed law.

Digest of Bill as Finally Passed by Senate

FANTASY SPORTS:

Present law provides for the "Louisiana Fantasy Sports Contests Act", which called for a proposition election held on Nov. 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 La. 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 but not be limited to:

- (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) 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 a W2-G form, or a substantially equivalent form, with the U.S. Internal Revenue Service.

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 La. 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 fines and authorizes license revocation for licensees who violate this proposed law prohibition.

Proposed law requires periodic reporting of gross fantasy sports contests revenues, net revenue, and financial statements regarding a fantasy sports contest operators operations in La.

Proposed law requires the Dept. of Children and Family Services to 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 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 a 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; however, if House Bill No. 600 of the 2019 R.S., relative to the taxation of fantasy sports contests revenue, is not enacted, then the proposed law provisions regarding fantasy sports shall not become effective.

SPORTS WAGERING:

Proposed law provides for a statewide election (decided on a parish-by-parish basis) to authorize the wagering in La. on sports events. Provides that if approved by the voters of a

particular parish, a licensed riverboat (Riverboat) or live horse racing facility with a licensed slot machine gaming area (Track) or the land-based casino gaming operator (Land-Based Casino) located in that parish may offer sports wagering. Requires the Riverboat, Track, or Land-Based Casino to apply to the Gaming Control Board (board) for a sports wagering certificate and be approved for such before conducting sports wagering.

Present law provides for manufacturer, gaming supplier, nongaming supplier, and key and nonkey gaming employee permits for manufacturers and suppliers who seek to do business and individuals who seek employment with Riverboats, Tracks, or the Land-Based Casino. Requires the manufacturer, supplier, or employee to secure the permit from the board before performing any activity for which a permit is required.

Proposed law adds sports wagering service provider to the list of present law permittees and defines a sports wagering service provider as a person who contracts with the holder of a sports wagering certificate to manage, administer, and control sports wagers for a Riverboat, Track, or the Land-Based Casino.

RIVERBOATS

Present law defines "game". Provides, among other exclusions, that "game" does not include any wagering on any type of sports event including but not limited to football, basketball, baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event. Provides "game" shall also include racehorse wagering.

Proposed law retains present law and adds that, for Riverboats to whom the board has issued a sports wagering certificate, "game" shall also include sports wagering as authorized in proposed law.

Present law defines "gaming device" or "gaming equipment" as any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine, including a slot machine, used directly or indirectly in connection with gaming or any game, which affects the result of a wager by determining wins or losses.

Proposed law retains present law and adds that, for Riverboats to whom the board has issued a sports wagering certificate, "gaming device" or "gaming equipment" shall also include any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine used directly or indirectly in connection with sports wagering.

Present law defines "gaming position" as a gaming device seat or a space at a table game. Each gaming device seat shall be counted as one position and each space at a table game shall be counted as one position, subject to the rules and regulations of the board. The board shall specifically provide by rule for the counting of gaming positions for devices and games where seats and spaces are not readily countable.

Proposed law retains present law and adds that, for Riverboats to whom the board has issued a sports wagering certificate, "gaming position" shall also include a self-service wagering machine or self-service kiosk or wagering window space where a sports wager is accepted and each space, machine, or kiosk where a sports wager is accepted shall be counted as one position, subject to rules and regulations of the board.

Present law requires Riverboats to utilize a cashless wagering system except for racehorse wagering and the play of slot machines.

Proposed law retains present law and adds sports wagering to the exception.

LAND-BASED CASINO

Present law defines "game". Provides, among other exclusions, that "game" does not include wagering on any type of sports event, inclusive but not limited to football, basketball,

baseball, hockey, boxing, tennis, wrestling, jai alai, or other sports contest or event.

Proposed law retains present law and adds that, if the Land-Based Casino has been issued a sports wagering certificate by the board, "game" shall also include sports wagering as authorized in proposed law.

Present law defines "gaming device" as any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine used directly or indirectly in connection with gaming or any game, which affects the result of a wager by determining wins or losses.

Proposed law retains present law and adds that if the Land-Based Casino has been issued a sports wagering certificate, "gaming device" shall also include any equipment or mechanical, electro-mechanical, or electronic contrivance, component, or machine used directly or indirectly in connection with sports wagering.

Present law requires wagering at the official gaming establishment to be made with tokens, chips, vouchers, coupons, or electronic cards issued by the Land-Based Casino.

Proposed law retains present law and adds that if the Land-Based Casino is issued a sports wagering certificate, sports wagers at the official gaming establishment shall be made in cash or through a patron's verified wagering account.

TRACKS

Present law defines "designated slot machine gaming area" as the contiguous area of an eligible live racing facility at which slot machine gaming may be conducted in accordance with present law. Provides that it is determined by measuring the area, in square feet, inside the interior walls of the licensed eligible facility, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage areas, and emergency evacuation routes of any width that meet or exceed the minimum size required by law.

Proposed law changes "designated slot machine gaming area" to "designated gaming area" and defines it as the contiguous area of a eligible live racing facility at which gaming may be conducted in accordance with law, excluding any space therein in which gaming activities may not be conducted.

Present law provides that wagering at the Track may be made with tokens, chips, vouchers, coupons, or electronic cards issued by the Track. Excludes the use of debit cards which automatically withdraw funds from a credit, savings, or checking account.

Proposed law retains present law and adds that sports wagers at an eligible facility may be made in cash or through a patron's verified wagering account.

Present law prohibits the operation or play of any type of game at the Tracks the play of which requires the participation of any employee of the licensee.

Proposed law makes an exception to present law for Tracks with a sports wagering certificate.

Present law provides that no gaming devices other than slot machines and authorized pari-mutuel wagering devices and equipment shall be in the designated slot machine gaming area.

Proposed law makes an exception to present law for a Track that has been issued a sports wagering certificate to have authorized self-service sports wagering machines or self-service kiosks or window spaces where sports wagers are accepted and any equipment associated therewith to be in the designated gaming area.

Present law provides that a "gaming position" means a slot machine seat.

Proposed law provides that for a Track that has been issued a sports wagering certificate, "gaming position" shall also include a self-service sports wagering machine or self-service kiosk or a wagering window space where sports wagers are accepted. Provides that each machine or kiosk or space shall be counted as one position, subject to the rules and regulations of the board. Provides an exception for a wagering window or kiosk that was lawfully accepting wagers prior to the effective date of the chapter of law authorizing sports wagering which shall not be counted as a "gaming position" if the wagering window space or kiosk is remodeled, re-purposed, relocated, or replaced for the purpose of conducting sports wagering.

LA. SPORTS WAGERING CONTROL ACT

Proposed law provides for the Louisiana Sports Wagering Control Act and provides for definitions. Authorizes sports wagering gaming activities to be conducted within approved gaming areas provided all of the following requirements are met:

- (1) A majority of the qualified electors voting at a proposition election called for that purpose in a parish where the sports wagering is taking place voted in favor of permitting sports wagering.
- (2) The Riverboat, Track, or Land-Based Casino has been awarded a sports wagering certificate by the board to conduct sports wagering.
- (3) The sports wagering is taking place within the designated gaming area of the Riverboat or Track or the official gaming establishment of the Land-Based Casino.
- (4) The gaming activities relative to sports wagering are being conducted in accordance with proposed law and all rules, regulations, and requirements of the board.

Proposed law provides that a sports wagering certificate holder or a sports wagering service provider permittee may accept wagers on an approved sports event at a wagering window or through self-service wagering machines or self-service kiosks. Provides that, except for certain wagering windows and kiosks at Tracks, each machine, kiosk, or window shall be counted as a single gaming position.

Proposed law provides a procedure for applying for a sports wagering certificate and requires an eligible Riverboat, Track, or Land-Based Casino to be awarded a certificate before conducting, operating, or performing any activity regulated pursuant to proposed law.

Proposed law provides that beginning Jan. 1, 2020, in parishes in which sports wagering has been approved by the voters, a Riverboat, Track, or Land-Based Casino may apply to the board for a certificate on a form and in a manner prescribed by the board. Provides that no certificate to conduct sports wagering shall be issued unless the board finds:

- (1) That the applicant is capable of conducting sports wagering.
- (2) That the applicant's submission of a detailed plan of design of the areas of its Riverboat, Track, or official gaming establishment to be used for sports wagering are acceptable.

Proposed law provides that only after the application is approved by the board and the board has received payment of applicable fees and issued the sports wagering certificate to the licensee or operator may the licensee or casino gaming operator conduct sports wagering at its facility.

Proposed law provides that a sports wagering certificate shall not be transferrable; however, the holder may contract with a permitted sports wagering service provider to manage, administer, or control sports wagers.

Proposed law requires the board to adopt all rules necessary to implement, administer, and regulate sports wagering as authorized by proposed law. Provides that at a minimum, the rules shall include the following:

- (1) Standards and procedures to govern the conduct of sports wagering including but not limited to standards and procedures for the approval of a sports event for wagering, and the system of wagering.
- (2) The method for calculating gross sports wagering revenue and standards for the daily counting and recording of cash and cash equivalents received in the conduct of sports wagering, including ensuring that internal controls are followed, financial books and records are maintained, and audits are conducted.
- (3) The amount of cash reserves to be maintained to cover winnings by the sports wagering certificate holder or sports wagering services provider permittee.
- (4) Notice requirements pertaining to minimum and maximum wagers.
- (5) Compulsive and problem gambling standards pertaining to sports wagering consistent with present law and proposed law.
- (6) Standards prohibiting persons under 21 years of age from participating in sports wagering.
- (7) Requirements that each sports wagering certificate holder and each sports wagering service provider permittee shall:
 - (a) Provide written information to sports wagering patrons about sports wagering rules, payouts or winning wagers, and other information as the board may require.
 - (b) Provide specifications approved by the board to integrate and update the casino's or eligible facility's surveillance system to cover all areas where sports wagering is conducted.
 - (c) Designate one or more locations within the designated gaming area or official gaming establishment to conduct sports wagering.
 - (d) Ensure that visibility of each sports wagering area in the casino or eligible facility is not obstructed in any way that could interfere with the ability of the sports wagering certificate holder and the board and other persons authorized under present law or by the board to oversee the surveillance of the conduct of sports wagering.
 - (e) Integrate the casino's or eligible facility's count room to ensure maximum security of the counting and storage of cash and cash equivalents.
 - (f) Equip each area of a Riverboat, Track, or Land-Based Casino in which sports wagering is conducted with all required notices.
 - (g) Ensure that no person under 21 years of age participates in sports wagering.

Proposed law provides that if the board has initiated regular rulemaking, the board may adopt initial emergency administrative rules without a finding that imminent peril to the public health, safety, or welfare exists.

Proposed law prohibits:

- (1) A person under the age of 21 from placing a sports wager and a sports wagering

certificate holder or sports wagering service provider permittee from knowingly accepting a wager from a person under 21 years of age.

- (2) A person from placing a wager and a sports wagering certificate holder or sports wagering service provider permittee from knowingly accepting a wager from any person who may control the outcome of the sports event on which the wager is attempting to be placed.

Proposed law authorizes electronic or mobile sports wagering provided:

- (1) Prior to the acceptance of any electronic wager, a patron shall have established a wagering account through the sports wagering certificate holder or sports wagering service provider permittee and an initial verification of the account is completed by the holder or permittee.
- (2) Electronic sports wagers are placed in the gaming area of the Riverboat, Track, or Land-Based Casino, as that area is determined by the board, or any other areas of the Riverboat, Track or Land-Based Casino, as the board may approve, provided those areas are restricted to persons at least 21 years of age or older.
- (3) The sports wagering certificate holder or sports wagering service provider permittee maintains geo-fencing or geo-location services and bears all costs and responsibilities associated therewith as required by the board.
- (4) The system of electronic sports wagering through a mobile or other digital platform shall count as one gaming position, subject to the rules and regulations of the board.

Proposed law provides that any holder of a sports wager receipt evidencing the right to a payment is required to present the receipt for payment within 90 days after the date of the conclusion of the sports event. The failure to present such receipt within such time shall constitute a waiver of the right to the payment and the holder of the receipt shall have no right to enforce payment of the wager receipt. Further provides that any unclaimed monies are required to be credited to the present law Crime Victims Reparations Fund.

Proposed law provides for the gaming division of state police to collect all state fees, fines, and taxes imposed or assessed under proposed law and under the rules, regulations, and decisions of the board. Provides for the funds to be deposited upon receipt with the state treasurer and credited against the Bond Security Redemption Fund. Provides that each fiscal year the state treasurer shall credit one thirteenth of avails of the tax levied, not to exceed \$750,000, to the Compulsive and Problem Gaming Fund. Provides that ten thirteenth of avails of the tax levied shall be credited to the La. Early Childhood Education Fund and two thirteenth of avails of the tax levied shall be remitted, by proportionate distribution, to each parish governing authority in which the taxable conduct occurred.

ELECTION

Proposed law provides for a statewide election on Oct. 12, 2019, on a proposition to determine whether sports wagering may be permitted in the parish. Provides that if the majority of the qualified electors voting disapprove the proposition, sports wagering shall not be allowed in that parish. Provides that if the majority of qualified electors voting approve the proposition, sports wagering may be conducted in the parish in accordance with proposed law.

Provides that proposed law shall not take effect and become operative until laws become operative and effective regarding permit and certificate fees for conducting sports wagering.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 13:4721, R.S. 14:90(C), 90.3(F), and 90.5(B) and (C), R.S. 27:3(24), 15(B)(1),

29(F), (H), and (I), 29.2(D), 29.3(D), 44(10), (12), and (14), 58(5), 65(B)(11), 205(12) and (13), 239.1, 302, 304, 353(2) and (4.1), 361(F), 364(A)(1)(c)(ii) and 5), 371(C), 372(B) and (C), and 375(D), and R.S. 46:1816(B)(8); Adds R.S. 18:1300.24, R.S. 27:3(25) and (26), 15(B)(8)(c), and 29.2.1, 92(D), 306 through 316, and 601 through 608)