

ACT No. 141

2020 Regular Session

HOUSE BILL NO. 357

BY REPRESENTATIVES MAGEE, BOURRIAQUE, BROWN, WILFORD CARTER, COX, FARNUM, HUGHES, JEFFERSON, TRAVIS JOHNSON, KERNER, PIERRE, AND STAGNI

1 AN ACT

2 To amend and reenact R.S. 27:302 and 304 and to enact R.S. 27:306 through 315, relative
3 to fantasy sports contests; to provide relative to the Louisiana Fantasy Sports
4 Contests Act; to provide for definitions; to provide for the licensing and regulation
5 of fantasy sports contests, operators, and players; to provide relative to suitability of
6 fantasy sports contest operators; to provide relative to the issuance or denial of
7 licenses; to prohibit the transfer of licenses; to provide penalties for allowing certain
8 persons to be a fantasy sports contest player; to provide relative to administrative
9 rules; to provide for periodic reporting; to provide relative to civil penalties; to
10 provide relative to revocation or suspension of a license; to provide relative to
11 investigations; to provide for obligations to participants; to provide for inactive
12 accounts; to provide for effectiveness; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 27:302 and 304 are hereby amended and reenacted and R.S. 27:306
15 through 315 are hereby enacted to read as follows:

16 §302. Definitions

17 For purposes of this Chapter:

18 (1) "Board" means the Louisiana Gaming Control Board.

19 (2) "Confidential information" means information related to the play of a
20 fantasy sports contest by fantasy sports contest players that is obtained as a result of
21 or by virtue of a person's employment.

1 (3) "Entry fee" means cash or cash equivalent that is required to be paid by
2 a fantasy sports contest participant to a fantasy sports contest operator in order to
3 participate in a fantasy sports contest.

4 ~~(2)~~(4) "Fantasy sports contest" means any fantasy or simulation sports game
5 or contest played through the internet or mobile device with all of the following
6 elements:

7 (a) Participants create a simulation sports team based on the current
8 membership of real-world amateur or professional sports organizations.

9 (b) All prizes and awards offered to winning participants are established and
10 made known to the participants in advance of the game or contest, and the value of
11 the prizes or awards is not determined by the number of participants or the amount
12 of any fees paid by those participants.

13 (c) All winning outcomes reflect the relative knowledge and skill of the
14 participant and are predominantly determined by accumulated statistical results of
15 the performance of the individuals, including athletes in the case of sporting events.

16 (d) No winning outcome is based on either of the following:

17 (i) On the score, point-spread, or any performance or performances of any
18 single real-world team or any combination of such teams.

19 (ii) Solely on any single performance of an individual athlete in any single
20 real-world sporting or other event.

21 (5) "Fantasy sports contest operator" or "operator" means a suitable person
22 domiciled in Louisiana or a domestic business entity or a foreign corporation that is
23 licensed by the board to offer a platform for the playing of fantasy sports contests,
24 to administer one or more fantasy sports contests with an entry fee, and to award a
25 prize of value.

26 (6) "Fantasy sports contest player" or "player" means a person who
27 participates in a fantasy sports contest offered by a fantasy sports contest operator.

28 (7) "Gross fantasy sports contest revenues" means the amount equal to the
29 total of all entry fees that a fantasy sports contest operator collects from all fantasy
30 sports contest players, multiplied by the location percentage for the state of
31 Louisiana.

(8) "Location percentage" means, for each fantasy sports contest, the percentage rounded to the nearest tenth of a percent of the total of entry fees collected from fantasy sports contest players located in the state of Louisiana, divided by the total entry fees collected from such players participating in fantasy sports contests.

(9) "Net revenue" means, for all fantasy sports contests, the amount equal to the total entry fees collected from all participants entering such fantasy sports contests, less the winnings paid to participants in the contests.

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§304. Gaming Control Board; duties and powers

A. The board shall perform the duties and functions as authorized by the provisions of this Chapter and the regulatory authority with respect to the regulation of fantasy sports contests as provided by R.S. 27:15.

B.(1) The board shall adopt, pursuant to the Administrative Procedure Act, all rules necessary to implement, administer, and regulate fantasy sports contests as authorized in this Chapter. The rules shall include but not be limited to the following:

(a) The issuance of any license, contract, or permit authorized by this Chapter, subject to regulation by the board.

(b) The methods of and forms and procedures for making an application for a license, contract, or permit to be considered by the board.

(c) 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.

(d) Enforcement of this Chapter, 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.

(2) Not later than August 1, 2020, the board shall institute rulemaking procedures as necessary to implement the provisions of this Subsection.

C.(1) In accordance with R.S. 27:306(C) and (D) and the Administrative Procedure Act, the board may assess and provide for the imposition and collection

1 of such fees as may be necessary to defray administrative costs associated with the
2 application for and the investigation, granting, or renewal of licenses and
3 enforcement of this Chapter.

4 (2) Any fine or other monetary penalty collected by the board or its staff
5 shall be remitted to the state treasury for deposit into the state general fund.

6 D. Upon direction of the board, the office of state police and the attorney
7 general shall submit proposed rules to the board for consideration, modification, and
8 promulgation as provided in this Section.

9 E. The board shall not adopt rules and regulations pertaining to campaign
10 finance and contributions which are more restrictive than the provisions of law found
11 generally in Chapter 11 of Title 18 of the Louisiana Revised Statutes of 1950, and
12 specifically in R.S. 18:1505.2(L).

13 * * *

14 §306. Licensing of fantasy sports contest operators

15 A. No fantasy sports contest operator shall offer any fantasy sports contest
16 in this state without first being licensed by the board. Applications for licensure
17 shall be on forms provided by the board.

18 B. Before obtaining a license to offer fantasy sports contests in this state, a
19 fantasy sports contest operator shall:

20 (1) Be a person domiciled in Louisiana or a domestic business entity with a
21 certificate of existence from the Secretary of State and in good standing or a foreign
22 corporation with a certificate of authority to transact business in this state from the
23 Secretary of State and in good standing.

24 (2) Demonstrate to the board that the operator is suitable for licensing
25 pursuant to R.S. 27:28.

26 (3) Provide the board with financial statements indicating any gross fantasy
27 sports contest revenue for the previous three years.

28 C. The initial application fee shall be one thousand dollars and shall be non-
29 refundable.

1 D. The license fee for a fantasy sports contest license shall be submitted to
2 the division prior to the issuance of the license. Each license shall be granted for a
3 term of three years. The license fee shall be as follows:

4 (1) If the three-year average of the licensee's gross fantasy sports contest
5 revenue is less than one hundred thousand dollars or the licensee has no previous
6 revenue, the fee shall be five thousand dollars.

7 (2) If the three-year average of the licensee's gross fantasy sports contest
8 revenue is one hundred thousand dollars or more, but less than three hundred
9 thousand dollars, the fee shall be fifteen thousand dollars.

10 (3) If the three-year average of the licensee's gross fantasy sports contest
11 revenue is more than three hundred thousand dollars, the fee shall be forty thousand
12 dollars.

13 (4) The renewal fee for a fantasy sports contest license shall be submitted to
14 the division on the anniversary date of the issuance of the license and shall be
15 assessed in the same manner as the original license fee was assessed.

16 E. All fees, fines, and other monies collected by the division, pursuant to this
17 Chapter, shall be forwarded upon receipt to the state treasurer for immediate deposit
18 into the state treasury. An amount shall be allocated to the Department of Public
19 Safety and Corrections and to the Department of Justice, pursuant to legislative
20 appropriation, for regulatory, administrative, investigative, enforcement, legal, and
21 other such expenses as may be necessary to carry out the provisions of this Chapter
22 and for activities associated with the enforcement of laws and regulations governing
23 fantasy sports contests.

24 F. Any fantasy sports contest operator that allows its license to lapse, without
25 requesting an extension of time to file for renewal of the license, shall be required
26 to resubmit an initial application for licensure. An extension may be granted by the
27 board upon receipt of a written request prior to the lapse of the license.

28 G. A license issued by the board to a fantasy sports contest operator shall not
29 be transferable.

1 §307. Issuance or denial of license

2 A. The board shall consider all applications for licensure and shall issue a
 3 license to an applicant that meets the criteria set forth in this Chapter and as
 4 established by the board.

5 B. The board shall deny a license to any applicant who does not meet the
 6 criteria as set forth in this Chapter and as established by the board.

7 C. The board shall issue or deny an operator's license within sixty days of
 8 receipt of an application for licensure. If a license is not issued, the board shall
 9 provide the operator with specific reasons for not issuing a license.

10 D. A license issued by the board to a fantasy sports contest operator shall not
 11 be transferable.

12 §308. Licensee requirements

13 A. As a condition of licensure, a fantasy sports contest operator shall submit
 14 evidence to the board that the operator has established and will implement
 15 commercially reasonable procedures for fantasy sports contests with an entry fee and
 16 that:

17 (1) Prevent employees of the fantasy sports contest operator, and relatives
 18 of an employee living in the same household as an employee of an operator, from
 19 competing in fantasy sports contests offered by an operator in which the operator
 20 offers a cash prize to the general public.

21 (2) Prevent sharing of confidential information that could affect fantasy
 22 sports contests with third parties until the information is made publicly available.

23 (3) Provide that no winning outcome is based on the score, point spread, or
 24 any performance of any single real-world sports team or combination of such teams
 25 or solely on any single performance of an individual athlete or participant in any
 26 single real-world sporting event.

27 (4) Ensure that any of following persons do not participate in fantasy sports
 28 contests:

29 (a) Athletes and individuals who participate in or officiate a game or
 30 competition that is a real-world sport or athletic event that is the subject of a fantasy
 31 sports contest.

1 **(b) Any sports agent, team employee, referee, or league official associated**
2 **with a real-world sport or athletic event that is the subject of a fantasy sports contest.**

3 **(5) Verify that a fantasy sports contest player is twenty-one years of age or**
4 **older.**

5 **(6) Provide fantasy sports contest players with access to information on**
6 **responsible play.**

7 **(7) Provide fantasy sports contest players with access to the fantasy sports**
8 **contest player's play history and account details that are not confidential.**

9 **(8) Allow individuals to restrict themselves from entering a fantasy sports**
10 **contest upon request and provide reasonable steps to prevent the person entering**
11 **fantasy sports contests offered by an operator.**

12 **(9) Segregate fantasy sports contest player funds from operational funds or**
13 **maintain a reserve that exceeds the amount of player funds on deposit, which may**
14 **not be used for operational activities. Reserve funds may take the form of cash, cash**
15 **equivalents, payment process reserves, payment processor receivables, an**
16 **irrevocable letter of credit, a bond, or a combination thereof, in the amount that must**
17 **exceed the total balances of the fantasy sports contest players' accounts.**

18 **B. A fantasy sports contest operator shall not offer fantasy sports contests**
19 **based on the performances of participants in high school or youth athletic events.**

20 **C. A fantasy sports contest operator shall not offer a fantasy sports contest**
21 **to the general public that does not establish and make known all prizes and awards**
22 **offered to winning participants in advance of the game or contest.**

23 **D. A licensed fantasy sports contest operator shall:**

24 **(1) Annually contract with a certified public accountant to conduct an**
25 **independent audit that is consistent with the standards accepted by the American**
26 **Institute of Certified Public Accountants.**

27 **(2) Submit to the board a copy of the audit report.**

28 **(3) Submit financial reports as required by R.S. 27:310.**

1 §309. Allowing certain players to play fantasy sports contests; penalties; revocation
2 hearing

3 A.(1) No person licensed pursuant to the provisions of this Chapter, or any
4 agent or employee thereof, shall allow a person under the age of twenty-one years
5 to be a fantasy sports contest player.

6 (2) No person licensed pursuant to the provisions of this Chapter, or any
7 agent or employee thereof, shall allow a person to participate in a fantasy sports
8 contest while located in a parish in which, at the election held pursuant to R.S.
9 27:303, a majority of the qualified electors in the parish voting on the proposition to
10 authorize fantasy sports contests in the parish voted against the proposition.

11 B.(1) The person licensed pursuant to the provisions of this Chapter shall
12 withhold all winnings from fantasy sports contest players who are determined to be
13 under the age of twenty-one years and from fantasy sports contest players
14 participating in a fantasy sports contest while located in a parish in which, at the
15 election held pursuant to R.S. 27:303, a majority of the qualified electors in the
16 parish voting on the proposition to authorize fantasy sports contests in the parish
17 voted against the proposition.

18 (2) The person licensed pursuant to the provisions of this Chapter shall each
19 quarter report and remit to the division all winnings withheld from fantasy sports
20 contest players pursuant to the provisions of this Section.

21 C.(1) Violations of Paragraph (A)(1) of this Section shall be penalized by the
22 division as follows:

23 (a) If the licensee, his employee, or agent reasonably believed that the person
24 was twenty-one years of age or older:

25 (i) For a first or second violation, a fine of up to one thousand dollars shall
26 be imposed.

27 (ii) For a third or subsequent violation, a license revocation hearing shall be
28 conducted at which time the board shall determine whether or not there are
29 extenuating circumstances pursuant to which a license suspension or revocation
30 should not be imposed. At the conclusion of the hearing, the board may revoke or
31 suspend the license or, in lieu of the revocation or suspension of a license, the board
32 may impose a civil penalty not to exceed fifty thousand dollars for each violation.

1 Payment of the civil penalty shall be a requirement for the retention of the license
2 held by the entity.

3 (b) If the licensee, his employee, or agent is shown to have known or
4 reasonably believed he was allowing a person under the age of twenty-one years to
5 be a fantasy sports contest player, or for allowing a person under the age of fifteen
6 years to be a fantasy sports contest player regardless of what the licensee, his
7 employee, or agent knew or reasonably believed about the age of that person:

8 (i) For a first or second violation, license revocation may be imposed, or a
9 fine of one thousand dollars shall be imposed if the license is not revoked.

10 (ii) For a third or subsequent violation, a license revocation hearing shall be
11 conducted at which time the board shall determine whether or not there are
12 extenuating circumstances pursuant to which a license suspension or revocation
13 should not be imposed. At the conclusion of the hearing, the board may revoke or
14 suspend a license or, in lieu of the revocation or suspension of a license, the board
15 may impose a civil penalty not to exceed fifty thousand dollars for each violation.

16 Payment of the civil penalty shall be a requirement for the retention of the license
17 held by the entity.

18 (2) Violations of Paragraph (A)(2) of this Section shall be penalized by the
19 division as follows:

20 (a) For a first or second violation, license revocation may be imposed or a
21 fine of one thousand dollars shall be imposed if the license is not revoked.

22 (b) For a third or subsequent violation, a license revocation hearing shall be
23 conducted at which time the board shall determine whether or not there are
24 extenuating circumstances pursuant to which a license suspension or revocation
25 should not be imposed. At the conclusion of the hearing, the board may revoke or
26 suspend a license or, in lieu of the revocation or suspension of a license, the board
27 may impose a civil penalty not to exceed fifty thousand dollars for each violation.

28 Payment of the civil penalty shall be a requirement for the retention of the license
29 held by the entity.

30 D.(1) A licensee shall be provided notice of the charged violation and may
31 concede the violation and accept the penalty or may deny the violation and demand

1 a hearing be held, pursuant to R.S. 27:25, to make a determination regarding the
2 charge.

3 (2) A violation shall have occurred only if the charged violation is conceded
4 by the licensee to have occurred or is found to have occurred at a hearing held for
5 that purpose.

6 (3) For the purposes of determining whether a second or subsequent
7 violation has occurred, every violation shall have occurred on a separate occasion,
8 by the same operator, and only violations that have occurred within a one-year
9 period, regardless of when they were charged, conceded, or found to have occurred,
10 shall be considered.

11 (4) For persons having more than one license issued pursuant to the
12 provisions of this Chapter, license revocation as provided in this Subsection shall
13 apply only to the license of the fantasy sports contest operator of the platform on
14 which the violation occurred.

15 E.(1) It is unlawful for any person under twenty-one years of age to be a
16 fantasy sports contest player.

17 (2) Whoever violates the provisions of this Subsection shall be fined not
18 more than one hundred dollars.

19 (3) Any person apprehended while violating the provisions of this
20 Subsection may be issued a citation by the apprehending law enforcement officer,
21 which shall be paid in the same manner as provided for the offenders of local traffic
22 violations.

23 §310. Reporting of gaming proceeds

24 An operator shall periodically report the following information to the
25 division, which is not confidential and shall be available for public inspection:

26 (1) The operator's gross fantasy sports contest revenues.

27 (2) The operator's net revenue.

28 (3) Quarterly and annual financial statements regarding their operations in
29 Louisiana submitted to the division that present historical data, including annual
30 financial statements that have been audited by an independent certified public
31 accountant as required by R.S. 27:308(D).

1 §311. Civil penalties; adoption of schedule of penalties

2 A. The Louisiana Gaming Control Board shall adopt as a rule the schedule
 3 of penalties provided for by this Chapter. All rules shall be adopted pursuant to the
 4 provisions of the Administrative Procedure Act.

5 B. A civil penalty shall not exceed fifty thousand dollars for each violation
 6 of any provision of this Chapter or rule of the board.

7 C.(1) Payment of the civil penalty shall be a requirement for the retention of
 8 any license held by the entity which violated any such provisions.

9 (2)(a) Failure to remit civil penalties shall result in the shutdown of the
 10 platform of the operator who refused to remit the civil penalty. The provisions of this
 11 Subparagraph shall apply only in those instances where no administrative hearing
 12 has been timely requested.

13 (b) Upon payment of the penalty, the platform may be reactivated.

14 D. If the operator contests the imposition of the civil penalty, the penalty
 15 shall be imposed only after an adjudicatory hearing is conducted pursuant to R.S.
 16 27:25 and a basis for imposition of the penalty is determined to exist.

17 §312. Revocation or suspension of a license; civil penalty

18 A. The board or division, as may be applicable, shall initiate an
 19 administrative action and may revoke or suspend the license or permit of any person
 20 issued pursuant to the provisions of this Chapter for any of the following:

21 (1) The failure to meet the requirements of suitability as defined in this
 22 Chapter or in any rules adopted by the board.

23 (2) The failure to meet the requirements for the issuance of a license as
 24 provided for in this Chapter or in any rules adopted by the board.

25 (3) Repeated violations of any of the provisions of this Chapter or any rule
 26 of the board governing this Chapter. "Repeated violations" shall mean three
 27 violations of the same rule or statutory provision which have occurred on separate
 28 occasions by the same operator within a one-year period. The date of a violation
 29 shall be considered to be the date the citation for that violation is issued.

30 B. For all other violations not listed in Subsection A of this Section, the
 31 board or division, as may be applicable, may issue a civil penalty in accordance with
 32 an adopted schedule of penalties as required by R.S. 27:311.

1 C. In addition to or in lieu of the revocation or suspension of a license issued
 2 pursuant to the provisions of this Chapter, the board or division, as may be
 3 applicable, may impose a civil penalty not to exceed fifty thousand dollars for each
 4 violation of any provision of this Chapter or any rule of the board governing this
 5 Chapter.

6 D. In lieu of revocation or suspension of a license, the licensee may enter
 7 into a consent agreement or settlement to pay a penalty not to exceed fifty thousand
 8 dollars.

9 E. No suspension imposed pursuant to the provisions of this Chapter shall
 10 exceed a period of thirty days.

11 §313. Investigations and violations

12 A. The division shall conduct such investigations, hearings, and inquiries as
 13 it deems necessary to fulfill its responsibilities under the provisions of this Chapter.
 14 A license may be suspended prior to a hearing upon a written finding of danger to
 15 public health and welfare.

16 B. As a condition of receiving a license under the provisions of this Chapter,
 17 each operator agrees that the division and its agents and employees shall have
 18 unrestricted access and the right to inspect any premises or electronic platform under
 19 the control of the operator in which any activity relating to the provisions of this
 20 Chapter is conducted.

21 §314. Limitation on active accounts; obligations to participants

22 An operator shall:

23 (1) Limit each authorized player to one active and continuously used
 24 account.

25 (2) Publish and facilitate parental control procedures to allow parents or
 26 guardians to exclude minors from access to any contest or platform. The procedures
 27 shall include a toll-free number to call for help in establishing such parental controls.

28 (3) Make clear conspicuous statements that are not inaccurate or misleading
 29 concerning the chances of winning and the number of winners when referencing the
 30 chances or likelihood of winning.

1 (4) Permit any authorized player to permanently close an account registered
2 to the player, on any and all platforms supported by the operator, at any time and for
3 any reason.

4 (5) Identify all highly experienced players in any contest by a symbol
5 attached to the players' usernames, or by other visible means, on all platforms
6 supported by the operator.

7 (6) Implement measures to protect the privacy and online security of
8 authorized players, their account, and their personal financial information.

9 §315. Charging for inactive accounts

10 A. An operator shall not charge a player for an inactive account.

11 B. An operator shall charge players only for entry fees placed or contests
12 entered. No player shall be charged for failure to enter on a fantasy sports contest
13 or for failure to deposit certain amounts of cash or cash equivalent into any account.

14 Section 2. This Act shall become effective upon signature by the governor or, if not
15 signed by the governor, upon expiration of the time for bills to become law without signature
16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
17 vetoed by the governor and subsequently approved by the legislature, this Act shall become
18 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____