

FIRST REGULAR SESSION

SENATE BILL NO. 343

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

Read 1st time February 4, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1738S.011

AN ACT

To repeal sections 313.905, 313.915, 313.920, 313.925, 313.935, 313.945, 313.950, and 313.955, RSMo, and to enact in lieu thereof ten new sections relating to fantasy sports contests, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 313.905, 313.915, 313.920, 313.925, 313.935, 313.945, 2 313.950, and 313.955, RSMo, are repealed and ten new sections enacted in lieu 3 thereof, to be known as sections 313.905, 313.915, 313.917, 313.920, 313.925, 4 313.935, 313.945, 313.950, 313.955, and 621.047 to read as follows:

313.905. As used in sections 313.900 to 313.955, the following terms shall 2 mean:

3 (1) "Authorized internet website", an internet website or any platform 4 operated by a licensed operator;

5 (2) "Commission", the Missouri gaming commission;

6 (3) "Entry fee", anything of value including, but not limited to, cash or a 7 cash equivalent that a fantasy sports contest operator collects in order to 8 participate in a fantasy sports contest;

9 (4) "Fantasy sports contest", any fantasy or simulated game or contest 10 with an entry fee[, conducted on an internet website or any platform,] in which:

11 (a) The value of all prizes and awards offered to the winning participants 12 is established and made known in advance of the contest;

13 (b) All winning outcomes reflect in part the relative knowledge and skill 14 of the participants and are determined predominantly by the accumulated 15 statistical results of the performance of individuals, including athletes in the case 16 of sports events; and

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 (c) No winnings outcomes are based on the score, point spread, or any
18 performance of any single actual team or combination of teams or solely on any
19 single performance of an individual athlete or player in any single actual event;

20 (5) "Fantasy sports contest operator", any person [or], entity, **or division**
21 **of a corporate entity** that offers [fantasy sports contests for a prize] **a**
22 **platform for the playing of fantasy sports contests, administers one or**
23 **more fantasy sports contests with an entry fee, and awards a prize of**
24 **value;**

25 (6) "Highly experienced player", a person who has either:

26 (a) Entered more than one thousand contests offered by a single fantasy
27 sports contest operator; or

28 (b) Won more than three fantasy sports prizes of one thousand dollars or
29 more;

30 (7) "Licensed operator", a fantasy sports contest operator licensed
31 pursuant to section 313.910 to offer fantasy sports contests for play on an
32 authorized internet website in Missouri;

33 (8) "**Location**", the **geographical position of a person as**
34 **determined within a degree of accuracy consistent with generally**
35 **available internet protocol address locators;**

36 (9) "**Location percentage**", for all fantasy sports contests, the
37 **percentage, rounded to the nearest one-tenth of one percent, of the**
38 **total entry fees collected from registered players located in the state of**
39 **Missouri at the time of entry into a fantasy sports contest, divided by**
40 **the total entry fees collected from all players, regardless of the players'**
41 **location, of the fantasy sports contests;**

42 (10) "Minor", any person less than eighteen years of age;

43 [(9)] (11) "Net revenue", for all fantasy sports contests, the amount equal
44 to the total entry fees collected from all participants entering such fantasy sports
45 contests less winnings paid to participants in the contests, multiplied by the
46 [resident] **location** percentage;

47 [(10)] (12) "Player", a person who participates in a fantasy sports contest
48 offered by a fantasy sports contest operator;

49 [(11)] (13) "Prize", anything of value including, but not limited to, cash
50 or a cash equivalent, contest credits, merchandise, or admission to another
51 contest in which a prize may be awarded;

52 [(12)] (14) "Registered player", a person registered pursuant to section

53 313.920 to participate in a fantasy sports contest [on an authorized internet
54 website];

55 [(13) "Resident percentage", for all fantasy sports contests, the percentage,
56 rounded to nearest one-tenth of one percent, of the total entry fees collected from
57 Missouri residents divided by the total entry fees collected from all players,
58 regardless of the players' location, of the fantasy sports contests; and

59 (14)] (15) "Script", a list of commands that a fantasy-sports-related
60 computer program can execute to automate processes on a fantasy sports contest
61 platform.

313.915. 1. In order to ensure the protection of registered players, an
2 authorized internet website shall identify the person or entity that is the licensed
3 operator.

4 2. A licensed operator shall ensure that fantasy sports contests on its
5 authorized internet website comply with all of the following:

6 (1) All winning outcomes are determined by accumulated statistical
7 results of fully completed contests or events, and not merely any portion thereof,
8 except that fantasy participants may be credited for statistical results
9 accumulated in a suspended or shortened contest or event which has been called
10 on account of weather or other natural or unforeseen event;

11 (2) [A licensed operator shall not allow] Registered players [to] **shall not**
12 select athletes through an autodraft that does not involve any input or control by
13 a registered player, or to choose preselected teams of athletes;

14 (3) [A licensed operator shall not offer or award] A prize **shall not be**
15 **offered to or awarded** to the winner of, or athletes in, the underlying
16 competition itself; and

17 (4) [A licensed operator shall not offer] Fantasy sports contests **shall not**
18 **be** based on the performances of participants in collegiate, high school, or youth
19 athletics.

20 3. A licensed operator shall have procedures approved by the commission
21 before operating in Missouri that:

22 (1) [Prevents] **Prevent** unauthorized withdrawals from a registered
23 player's account by the licensed operator or others;

24 (2) [Makes] **Make** clear that funds in a registered player's account are not
25 the property of the licensed operator and are not available to the licensed
26 operator's creditors;

27 (3) Segregate player funds from operational funds;

28 (4) Maintain a reserve [in the form of cash or cash equivalents in the
29 amount of the deposits made to the accounts of fantasy sports contest players for
30 the benefit and protection of the funds held in such] **that equals or exceeds**
31 **the amount of player funds on deposit, which reserve shall not be used**
32 **for operational activities. Such reserve funds may take the form of**
33 **cash, cash equivalents, payment processor reserves, payment processor**
34 **receivables, an escrow account, or a combination thereof, in the amount**
35 **that shall equal or exceed the total balances of the fantasy sports**
36 **contest players' accounts;**

37 (5) [Ensures] **Ensure** any prize won by a registered player from
38 participating in a fantasy sports contest is deposited into the registered player's
39 account within forty-eight hours **or mailed within five business days of**
40 winning the prize **except as provided under section 313.917;**

41 (6) [Ensures] **Ensure** registered players can withdraw the funds
42 maintained in their individual accounts, whether such accounts are open or
43 closed, within five business days of the request being made, unless the licensed
44 operator believes in good faith that the registered player engaged in either
45 fraudulent conduct or other conduct that would put the licensed operator in
46 violation of sections 313.900 to 313.955, in which case the licensed operator may
47 decline to honor the request for withdrawal for a reasonable investigatory period
48 until its investigation is resolved if it provides notice of the nature of the
49 investigation to the registered player. For the purposes of this provision, a
50 request for withdrawal will be considered honored if it is processed by the
51 licensed operator but delayed by a payment processor, credit card issuer or by the
52 custodian of a financial account;

53 (7) [Allows] **Allow** a registered player to permanently close their account
54 at any time for any reason; and

55 (8) [Offers] **Offer** registered players access to their play history and
56 account details.

57 4. A licensed operator shall establish procedures for a registered player
58 to report complaints to the licensed operator regarding whether his or her account
59 has been misallocated, compromised, or otherwise mishandled, and a procedure
60 for the licensed operator to respond to those complaints.

61 5. A registered player who believes his or her account has been
62 misallocated, compromised, or otherwise mishandled should notify the
63 commission. Upon notification, the commission may investigate the claim and

64 may take any action the commission deems appropriate under subdivision (4) of
65 section 313.950.

66 6. A licensed operator shall not issue credit to a registered player.

67 7. A licensed operator shall not allow a registered player to establish more
68 than one account or user name on its authorized internet website.

**313.917. 1. If a licensed operator believes in good faith that a
2 registered player engaged in either fraudulent conduct or other
3 conduct that would put the licensed operator in violation of sections
4 313.900 to 313.955, the licensed operator may delay payment of any
5 prize won by such player for up to fifteen days while the licensed
6 operator investigates to determine if any such conduct occurred;
7 provided that, the licensed operator provides notice of the nature of
8 the investigation to the registered player. If the licensed operator finds
9 that the registered player has engaged in either fraudulent conduct or
10 other conduct that would put the licensed operator in violation of
11 sections 313.900 to 313.955, the licensed operator may refuse to pay out
12 the prize to the registered player if the licensed operator informs the
13 registered player in writing of the reason for nullification of the prize,
14 that the player has the right to request an investigation by the
15 commission within thirty days, and of the contact information for the
16 commission.**

17 **2. The commission shall establish a process to investigate any
18 case referred to it under subsection 1 of this section and issue
19 determinations on a case-by-case basis. The commission shall notify the
20 licensed operator and the registered player of its determination and
21 either party may appeal, within thirty days, such determination to the
22 administrative hearing commission as provided under section 621.047.**

23 **3. If a licensed operator delays or withholds payment of a prize
24 under the provisions of this section, such licensed operator shall pay
25 any prizes won by other registered players in the contest as though the
26 contested payment will be awarded to the registered player under
27 investigation. If, after final determination, the contested payment is
28 not awarded, all other winning registered players in the contest shall
29 have their prizes adjusted accordingly.**

313.920. 1. A person shall register with a licensed operator prior to
2 participating in fantasy sports contests on an authorized internet website.

3 2. A licensed operator shall implement appropriate security standards to

4 prevent access to fantasy sports contests by a person whose location and age have
5 not been verified in accordance with this section.

6 3. A licensed operator shall ensure that all individuals register before
7 participating in a fantasy sports contest on an authorized internet website and
8 provide their age and state of residence.

9 4. A licensed operator shall ensure that an individual is of legal age before
10 participating in a fantasy sports contest [on an authorized internet website]. In
11 Missouri, the legal age to participate shall be eighteen years of age.

12 5. (1) The licensed operator shall develop an online self-exclusion form
13 and a process to exclude from play any person who has filled out the form.

14 (2) A licensed operator shall retain each online self-exclusion form
15 submitted to it in order to identify persons who want to be excluded from play. A
16 licensed operator shall exclude those persons.

17 (3) A licensed operator shall provide a link on its authorized internet
18 website to a compulsive behavior website and the online self-exclusion form
19 described in subdivision (1) of this subsection.

20 6. A licensed operator shall not advertise fantasy sports contests in
21 publications or other media that are aimed exclusively or primarily at persons
22 less than eighteen years of age. A licensed operator's advertisement shall not
23 depict persons under eighteen years of age, students, or settings involving a
24 school or college. However, incidental depiction of nonfeatured minors shall not
25 be a violation of this subsection.

26 7. A licensed operator shall not advertise fantasy sports contests to an
27 individual by phone, email, or any other form of individually targeted
28 advertisement or marketing material if the individual has self-excluded himself
29 or herself pursuant to this section or if the individual is otherwise barred from
30 participating in fantasy sports contests. A licensed operator shall also take
31 reasonable steps to ensure that individuals on the involuntary exclusion list or
32 disassociated persons list maintained by the commission are not subject to any
33 form of individually targeted advertising or marketing.

34 8. A licensed operator shall not misrepresent the frequency or extent of
35 winning in any fantasy sports contest advertisement.

36 9. A licensed operator shall clearly and conspicuously publish and
37 facilitate parental control procedures to allow parents or guardians to exclude
38 minors from access to any fantasy sports contest. Licensed operators shall take
39 commercially reasonable steps to confirm that an individual opening an account

40 is not a minor.

41 10. Licensed operators shall prohibit the use of scripts in fantasy sports
42 contests that give players an unfair advantage over other players.

43 11. Licensed operators shall monitor fantasy sports contests to detect the
44 use of unauthorized scripts and restrict players found to have used such scripts
45 from further fantasy sports contests.

46 12. Licensed operators shall make all authorized scripts readily available
47 to all fantasy sports players; provided, that a licensed operator shall clearly and
48 conspicuously publish its rules on what types of scripts may be authorized in the
49 fantasy sports contest.

50 13. Licensed operators shall clearly and conspicuously identify highly
51 experienced players in fantasy sports contests by a symbol attached to a player's
52 username, or by other easily visible means, on the licensed operator's authorized
53 internet website.

54 14. Licensed operators shall offer some fantasy sports contests open only
55 to beginner players and that exclude highly experienced players.

313.925. 1. This section applies to all of the following persons:

2 (1) An officer of a licensed operator;

3 (2) A director of a licensed operator;

4 (3) A principal of a licensed operator;

5 (4) An employee of a licensed operator; and

6 (5) A contractor of a licensed operator with proprietary or nonpublic
7 information.

8 2. A person listed in subsection 1 of this section shall not play any fantasy
9 sports contest [outside of private fantasy sports contests offered by the licensed
10 operator exclusively for those listed] **offered by any fantasy sports contest**
11 **operator that is open to the public.**

12 3. A person listed in subsection 1 of this section shall not disclose
13 proprietary or nonpublic information that may affect the play of fantasy sports
14 contests to any individual authorized to play fantasy sports contests.

15 4. A licensed operator shall make the prohibitions in this section known
16 to all affected individuals and corporate entities.

313.935. 1. No fantasy sports contest operator shall offer any fantasy
2 sports contest in Missouri without first being licensed by the commission. A
3 fantasy sports contest operator wishing to offer fantasy sports contests in this
4 state shall [annually] apply to the commission for a license and shall remit to the

5 commission an [annual] application fee of ten thousand dollars or ten percent of
6 the applicant's net revenue from the previous calendar year, whichever is lower.

7 2. As part of the commission's investigation and licensing process, the
8 commission may conduct an investigation of the fantasy sports contest operator's
9 employees, officers, directors, trustees, and principal salaried executive staff
10 officers. The applicant shall be responsible for the [total] cost of the investigation
11 **up to ten thousand dollars**. If the cost of the investigation exceeds the
12 application fee, the applicant shall remit **such cost** to the commission [the total
13 cost of the investigation] prior to any license being issued. [The total cost of the
14 investigation, paid by the applicant, shall not exceed fifty thousand dollars.] **An**
15 **applicant may apply for, and the commission may grant, based on a**
16 **showing of undue burden, a waiver of all or a portion of the cost of the**
17 **investigation**. All revenue received under this section shall be placed into the
18 gaming commission fund created under section 313.835.

19 3. (1) **A fantasy sports contest operator with net revenues of two**
20 **million dollars or more from the previous calendar year shall be**
21 **required to submit an annual license renewal fee of five thousand**
22 **dollars by November first of each subsequent calendar year. A fantasy**
23 **sports contest operator with net revenues of less than two million**
24 **dollars but greater than one million dollars from the previous calendar**
25 **year shall be required to submit an annual license renewal fee of two**
26 **thousand five hundred dollars by November first of each subsequent**
27 **calendar year. A fantasy sports contest operator with net revenues**
28 **equal to or less than one million dollars but greater than two hundred**
29 **fifty thousand dollars shall submit an annual license renewal fee of one**
30 **thousand dollars by November first of each subsequent calendar year.**
31 **A fantasy sports contest operator with net revenues of two hundred**
32 **fifty thousand dollars or less from the previous calendar year shall not**
33 **be required to submit an annual license renewal fee.**

34 (2) In addition to the [application] **license renewal** fee, a licensed
35 operator shall also pay an annual operation fee[, on April fifteenth of each year,]
36 in a sum equal to [eleven and one-half] **six** percent of the licensed operator's net
37 revenue from the previous calendar year. All revenue collected under this
38 subsection shall be placed in the gaming proceeds for education fund created
39 under section 313.822. If a licensed operator fails to **apply for a license**
40 **renewal or** pay the annual operation fee [by April fifteenth, the licensed

41 operator shall have its license immediately suspended by], the commission **may**
42 **suspend the license of such licensed operator** until such payment is made.

43 4. Any fantasy sports contest operator already operating in the state prior
44 to April 1, 2016, may operate until they have received or have been denied a
45 license. Such fantasy sports contest operators shall apply for a license prior to
46 October 1, 2016. Any fantasy sports contest operator operating under this
47 subsection after August 28, 2016, shall pay the annual operation fee of eleven and
48 one-half percent of its net revenue from August 28, 2016, until action is taken on
49 its application. If a fantasy sports contest operator fails to pay its operation fee
50 by April 15, 2017, the fantasy sports contest operator shall have its license
51 immediately suspended by the commission, or if the fantasy sports contest
52 operator has a pending application, its application shall be denied immediately.

53 5. If a **licensed** fantasy sports contest operator ceases to offer fantasy
54 sports contests in Missouri, the operator shall pay an operation fee equal to
55 ~~[eleven and one-half]~~ **six** percent of its net revenue for the period of the calendar
56 year in which it offered fantasy sports contests in Missouri **by November first**
57 **of the subsequent calendar year**. [Such payment shall be made within sixty
58 days of the last day the fantasy sports contest operator offered fantasy sports
59 contests in Missouri. After the expiration of sixty days, a penalty of five hundred
60 dollars per day shall be assessed against the fantasy sports contest operator until
61 the operation fee and any penalty is paid in full.]

313.945. 1. Notwithstanding any applicable statutory provision to the
2 contrary, all investigatory, proprietary, or application records, information, and
3 summaries in the possession of the commission or its agents ~~[may]~~ **shall** be
4 treated by the commission as closed records not to be disclosed to the public;
5 except that the commission shall, on written request from any person, provide
6 such person with the following information furnished by an applicant or licensee:

7 (1) The name, business address, and business telephone number of any
8 applicant or licensee;

9 (2) An identification of any applicant or licensee, including, if an applicant
10 or licensee is not an individual, the state of incorporation or registration, the
11 corporate officers, and the identity of all shareholders or participants. If an
12 applicant or licensee has a pending registration statement filed with the federal
13 Securities and Exchange ~~[Division]~~ **Commission**, the names of those persons or
14 entities holding interest shall be provided;

15 (3) An identification of any business, including, if applicable, the state of

16 incorporation or registration in which an applicant or licensee or an applicant's
17 or licensee's spouse or children have an equity interest. If an applicant or
18 licensee is a corporation, partnership, or other business entity, the applicant or
19 licensee shall identify any other corporation, partnership, or business entity in
20 which it has an equity interest, including, if applicable, the state of incorporation
21 or registration. This information need not be provided by a corporation,
22 partnership, or other business entity that has a pending registration statement
23 filed with the federal Securities and Exchange [Division] **Commission**;

24 (4) Whether an applicant or licensee has been indicted, convicted, pleaded
25 guilty or nolo contendere, or forfeited bail concerning any criminal offense under
26 the laws of any jurisdiction, either felony or misdemeanor, except for traffic
27 violations, including the date, the name and location of the court, arresting
28 agency and prosecuting agency, the case number, the offense, the disposition, and
29 the location and length of incarceration;

30 (5) Whether an applicant or licensee has had any license or certificate
31 issued by a licensing authority in this state or any jurisdiction denied, restricted,
32 suspended, revoked, or not renewed and a statement describing the facts and
33 circumstances concerning the denial, restriction, suspension, revocation, or
34 nonrenewal, including the licensing authority, the date each such action was
35 taken, and the reason for each such action;

36 (6) Whether an applicant or licensee has ever filed or had filed against it
37 a proceeding in bankruptcy or has ever been involved in any formal process to
38 adjust, defer, suspend, or otherwise work out the payment of any debt, including
39 the date of filing, the name and location of the court, and the case and number
40 of the disposition;

41 (7) Whether an applicant or licensee has filed or been served with a
42 complaint or other notice filed with any public body regarding the delinquency in
43 the payment of, or a dispute over, the filings concerning the payment of any tax
44 required under federal, state, or local law, including the amount, type of tax, the
45 taxing agency, and time periods involved;

46 (8) A statement listing the names and titles of all public officials or
47 officers of any unit of government, and relatives of such public officials or officers
48 who, directly or indirectly, own any financial interest in, have any beneficial
49 interest in, are the creditors of or hold any debt instrument issued by, or hold or
50 have any interest in any contractual or service relationship with, an applicant or
51 licensee;

52 (9) The name and business telephone number of the attorney representing
53 an applicant or licensee in matters before the commission.

54 2. Notwithstanding any applicable statutory provision to the contrary, the
55 commission shall, on written request from any person, also provide the following
56 information:

57 (1) The amount of the tax receipts paid to the state by the holder of a
58 license;

59 (2) Whenever the commission finds an applicant for a license unsuitable
60 for licensing, a copy of the written letter outlining the reasons for the denial; and

61 (3) Whenever the commission has refused to grant leave for an applicant
62 to withdraw his application, a copy of the letter outlining the reasons for the
63 refusal.

313.950. The commission [shall have full jurisdiction over and] shall
2 supervise all licensed operators, other licensees, and authorized internet websites
3 governed by sections 313.900 to 313.955. The commission shall have the
4 following powers to implement sections 313.900 to 313.955:

5 (1) To investigate applicants;

6 (2) To license fantasy sports contest operators and adopt standards for
7 licensing;

8 (3) To investigate alleged violations of sections 313.900 to 313.955 or the
9 commission's rules, orders, or final decisions;

10 (4) To assess an appropriate administrative penalty of not more than [ten]
11 **one** thousand dollars per violation, not to exceed [one hundred] **ten** thousand
12 dollars for violations arising out of the same transaction or occurrence, and take
13 action including, but not limited to, the suspension or revocation of a license for
14 violations of sections 313.900 to 313.955 or the commission's rules, orders, or final
15 decisions;

16 (5) To issue subpoenas for the attendance of witnesses and subpoenas
17 duces tecum for the production of books, records, and other pertinent documents,
18 and to administer oaths and affirmations to the witnesses, when, in the judgment
19 of the commission, it is necessary to enforce sections 313.900 to 313.955 or the
20 commission rules;

21 (6) To take any other action as may be reasonable or appropriate to
22 enforce sections 313.900 to 313.955 and the commission rules.

313.955. 1. The commission shall have power to adopt and enforce rules
2 and regulations:

3 (1) [To regulate and license the management, operation, and conduct of
4 fantasy sports contests and participants therein;

5 (2)] To adopt responsible play protections for registered players; and

6 [(3)] (2) To properly administer and enforce the provisions of sections
7 313.900 to 313.955.

8 2. The commission shall not adopt rules or regulations limiting or
9 regulating the rules or administration of an individual fantasy sports contest, the
10 statistical makeup of a fantasy sports contest, or the digital platform of a fantasy
11 sports contest operator.

12 3. No rule or portion of a rule promulgated under the authority of sections
13 313.900 to 313.955 shall become effective unless it has been promulgated
14 pursuant to the provisions of section 536.024.

**621.047. 1. Except as otherwise provided by law, any person or
2 entity shall have the right to appeal to the administrative hearing
3 commission from any finding, decision, or determination made by the
4 Missouri gaming commission under section 313.917. Any person or
5 entity who is a party to such a dispute shall be entitled to a hearing
6 before the administrative hearing commission by the filing of a petition
7 with the administrative hearing commission within thirty days after
8 the decision of the Missouri gaming commission is placed in the United
9 States mail or within thirty days after the decision is delivered,
10 whichever is earlier. The decision of the Missouri gaming commission
11 shall contain a notice of the right of appeal in substantially the
12 following language:**

13 **"If you were adversely affected by this decision, you may
14 appeal to the administrative hearing commission. To
15 appeal, you must file a petition with the administrative
16 hearing commission within thirty days after the date this
17 decision was mailed or the date it was delivered,
18 whichever date was earlier. If any such petition is sent by
19 registered mail or certified mail, it will be deemed filed on
20 the date it is mailed; if it is sent by any method other than
21 registered mail or certified mail, it will be deemed filed on
22 the date it is received by the commission."**

23 **2. The procedures applicable to the processing of such hearings
24 and determinations shall be those established by chapter
25 536. Decisions of the administrative hearing commission under this**

26 section shall be binding, subject to appeal by either party.

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