

FIRST REGULAR SESSION

HOUSE BILL NO. 502

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZPATRICK.

1204H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 313.905, 313.915, 313.920, 313.925, 313.935, 313.940, 313.945, 313.950, and 313.955, RSMo, and to enact in lieu thereof nine 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Section A. Sections 313.905, 313.915, 313.920, 313.925, 313.935, 313.940, 313.945, 2 313.950, and 313.955, RSMo, are repealed and nine new sections enacted in lieu thereof, to be 3 known as sections 313.905, 313.915, 313.920, 313.925, 313.935, 313.940, 313.945, 313.950, 4 and 313.955, to read as follows:

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

- 2 (1) "Authorized internet website", an internet website or any platform operated by a
3 licensed operator;
- 4 (2) "Commission", the Missouri gaming commission;
- 5 (3) "Entry fee", anything of value including, but not limited to, cash or a cash equivalent
6 that a fantasy sports contest operator collects in order to participate in a fantasy sports contest;
- 7 (4) "Fantasy sports contest", any fantasy or simulated game or contest with an entry fee[;
8 ~~conducted on an internet website or any platform;~~] in which:
- 9 (a) The value of all prizes and awards offered to the winning participants is established
10 and made known in advance of the contest;
- 11 (b) All winning outcomes reflect in part the relative knowledge and skill of the
12 participants and are determined predominantly by the accumulated statistical results of the
13 performance of individuals, including athletes in the case of sports events; and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

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

25 (7) "Licensed operator", a fantasy sports contest operator licensed pursuant to section
26 313.910 to offer fantasy sports contests for play on an authorized internet website in Missouri;

27 (8) "**Location**", **the geographical position of a person as determined within a degree**
28 **of accuracy consistent with generally accepted technical standards;**

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

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

35 ~~[(9)]~~ (11) "Net revenue", for all fantasy sports contests, the amount equal to the total
36 entry fees collected from all participants entering such fantasy sports contests less winnings paid
37 to participants in the contests, multiplied by the ~~[resident]~~ **location** percentage;

38 ~~[(10)]~~ (12) "Player", a person who participates in a fantasy sports contest offered by a
39 fantasy sports contest operator;

40 ~~[(11)]~~ (13) "Prize", anything of value including, but not limited to, cash or a cash
41 equivalent, contest credits, merchandise, or admission to another contest in which a prize may
42 be awarded;

43 ~~[(12)]~~ (14) "Registered player", a person registered pursuant to section 313.920 to
44 participate in a fantasy sports contest ~~[on an authorized internet website];~~

45 ~~[(13)]~~ "Resident percentage", ~~for all fantasy sports contests, the percentage, rounded to~~
46 ~~nearest one-tenth of one percent, of the total entry fees collected from Missouri residents divided~~
47 ~~by the total entry fees collected from all players, regardless of the players' location, of the fantasy~~
48 ~~sports contests; and~~

49 ———(14)] (15) "Script", a list of commands that a fantasy-sports-related computer program
50 can execute to automate processes on a fantasy sports contest platform.

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

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

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

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

12 (3) A licensed operator shall not offer or award a prize to the winner of, or athletes in,
13 the underlying competition itself; and

14 (4) A licensed operator shall not offer fantasy sports contests based on the performances
15 of participants in collegiate, high school, or youth athletics.

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

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

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

22 (3) Segregate player funds from operational funds;

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

31 (5) ~~[Ensures]~~ **Ensure** any prize won by a registered player from participating in a fantasy
32 sports contest is deposited into the registered player's account within forty-eight hours **or mailed**
33 **within five business days** of winning the prize **unless the licensed operator believes in good**
34 **faith that the registered player engaged in either fraudulent conduct or other conduct that**

35 **would put the licensed operator in violation of sections 313.900 to 313.955, in which case**
36 **the licensed operator may delay such deposit for a reasonable investigatory period until**
37 **its investigation is resolved if it provides notice of the nature of the investigation to the**
38 **registered player;**

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

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

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

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

56 5. A registered player who believes his or her account has been misallocated,
57 compromised, or otherwise mishandled should notify the commission. Upon notification, the
58 commission may investigate the claim and may take any action the commission deems
59 appropriate under subdivision (4) of section 313.950.

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

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

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

3 2. A licensed operator shall implement appropriate security standards to prevent access
4 to fantasy sports contests by a person whose location and age have not been verified in
5 accordance with this section.

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

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

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

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

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

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

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

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

34 9. A licensed operator shall clearly and conspicuously publish and facilitate parental
35 control procedures to allow parents or guardians to exclude minors from access to any fantasy
36 sports contest. Licensed operators shall take commercially reasonable steps to confirm that an
37 individual opening an account is not a minor.

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

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

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

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

49 14. Licensed operators shall offer some fantasy sports contests open only to beginner
50 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 information.

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

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

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

313.935. 1. No fantasy sports contest operator shall offer any fantasy sports contest in
2 Missouri without first being licensed by the commission. A fantasy sports contest operator
3 wishing to offer fantasy sports contests in this state shall ~~[annually]~~ apply to the commission for
4 a license and shall remit to the commission an ~~[annual]~~ application fee of ten thousand dollars
5 or ten percent of the applicant's net revenue from the previous calendar year, whichever is lower.

6 2. As part of the commission's investigation and licensing process, the commission may
7 conduct an investigation of the fantasy sports contest operator's employees, officers, directors,
8 trustees, and principal salaried executive staff officers. The applicant shall be responsible for
9 the total cost of the investigation. If the cost of the investigation exceeds the application fee, the
10 applicant shall remit **such cost** to the commission ~~[the total cost of the investigation]~~ prior to any
11 license being issued. The total cost of the investigation ~~[, paid by the applicant,]~~ shall not exceed
12 ~~[fifty]~~ **ten** thousand dollars. All revenue received under this section shall be placed into the
13 gaming commission fund created under section 313.835.

14 3. (1) **The fantasy sports contest operator with net revenues of over two million**
15 **dollars from the previous calendar year shall be required to submit an annual license**
16 **renewal fee of five thousand dollars by November first of each subsequent calendar year.**
17 **A fantasy sports contest operator with net revenues of less than two million dollars but**
18 **greater than one million dollars from the previous calendar year shall be required to**
19 **submit an annual license renewal fee of two thousand five hundred dollars by November**
20 **first of each subsequent calendar year. A fantasy sports contest operator with net revenues**
21 **equal to or less than one million dollars but greater than one hundred thousand dollars**
22 **shall submit an annual license renewal fee of one thousand dollars by November first of**
23 **each subsequent calendar year. A fantasy sports contest operator with net revenues of one**
24 **hundred thousand dollars or less from the previous calendar year shall be not be required**
25 **to submit an annual license renewal fee.**

26 (2) In addition to the ~~[application]~~ **license renewal** fee, a licensed operator shall also pay
27 an annual operation fee ~~[, on April fifteenth of]~~ each year ~~;~~ in a sum equal to ~~[eleven and~~
28 ~~one-half]~~ **six** percent of the licensed operator's net revenue from the previous calendar year. All
29 revenue collected under this subsection shall be placed in the gaming proceeds for education
30 fund created under section 313.822. If a licensed operator fails to **apply for a license renewal**
31 **or** pay the annual operation fee ~~[by April fifteenth, the licensed operator shall have its license~~
32 ~~immediately suspended by]~~ , the commission **may suspend the license of such licensed**
33 **operator** until such payment is made.

34 4. Any fantasy sports contest operator already operating in the state prior to April 1,
35 2016, may operate until they have received or have been denied a license. Such fantasy sports
36 contest operators shall apply for a license prior to October 1, 2016. Any fantasy sports contest
37 operator operating under this subsection after August 28, 2016, shall pay the annual operation
38 fee of eleven and one-half percent of its net revenue from August 28, 2016, until action is taken
39 on its application. If a **licensed** fantasy sports contest operator fails to pay its **annual** operation
40 fee by ~~[April 15, 2017]~~ **November 1, 2017**, the **commission may suspend the license or deny**
41 **the pending license application of such** fantasy sports contest operator ~~[shall have its license~~
42 ~~immediately suspended by the commission, or if the fantasy sports contest operator has a pending~~
43 ~~application, its application shall be denied immediately].~~

44 5. If a **licensed** fantasy sports contest operator ceases to offer fantasy sports contests in
45 Missouri, the operator shall pay an operation fee equal to ~~[eleven and one-half]~~ **six** percent of its
46 net revenue for the period of the calendar year in which it offered fantasy sports contests in
47 Missouri **by November first of the subsequent calendar year.** ~~[Such payment shall be made~~
48 ~~within sixty days of the last day the fantasy sports contest operator offered fantasy sports contests~~
49 ~~in Missouri. After the expiration of sixty days, a penalty of five hundred dollars per day shall~~

50 be assessed against the fantasy sports contest operator until the operation fee and any penalty is
51 paid in full.]

313.940. **1. Except as provided in subsection 2 of this section**, a licensed operator
2 shall contract annually with a certified public accountant to perform a financial audit of the
3 licensed operator [~~and the authorized internet website~~]. **Except as provided in subsection 2**
4 **of this section, a licensed operator shall also contract with a qualified third party to**
5 **perform an audit** to ensure compliance with sections 313.900 to 313.955 and any rule
6 governing sections 313.900 to 313.955. The licensed operator shall [~~pay for the audit and~~]
7 submit[~~, by March first~~] **the result of each audit to the commission by November first of**
8 **[each] the subsequent calendar year[~~, the results of the audit to the commission~~].**

9 **2. A licensed operator with net revenues of one hundred thousand dollars or less**
10 **in a calendar year shall not be required to comply with the provisions of subsection 1 of**
11 **this section unless otherwise ordered by the commission. The commission shall notify such**
12 **operator and allow such operator a reasonable period to comply with the order.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (1) To investigate applicants;

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

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

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

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

18 (6) To take any other action as may be reasonable or appropriate to enforce sections
19 313.900 to 313.955 and the commission rules.

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

3 (1) ~~[To regulate and license the management, operation, and conduct of fantasy sports~~
4 ~~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 313.900 to
7 313.955.

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

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

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