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SENATE BILL DRS45346-MQfqq-67A* (03/14)

Short Title: Fantasy Sports Regulation. (Public)

Sponsors: Senators Gunn, Blue, and Lee (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE REGISTRATION OF FANTASY SPORTS CONTEST
3 OPERATORS WITH THE DEPARTMENT OF THE SECRETARY OF STATE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. The General Statutes are amended by adding a new Chapter to read:

6 "Chapter 78E.

7 "Fantasy Sports Contests.

8 "§ 78E-1. Title.

9 This Chapter shall be known and may be cited as the "Fantasy Sports Contests Act."

10 "§ 78E-2. Definitions.

11 In this Chapter, unless the context otherwise requires, the following definitions shall apply:

- 12 (1) Department. – The Department of the Secretary of State.
- 13 (2) Entry fee. – Cash or cash equivalent that is required to be paid by a
14 participant to an operator in order to participate in a fantasy contest.
- 15 (3) Fantasy contest. – An online fantasy or simulated game or contest in which
16 an entry fee is charged and all of the following conditions apply:
17 a. The value of all prizes and awards offered to winning participants is
18 established and made known to the participants in advance of a
19 contest that is open to the general public.
20 b. All winning outcomes reflect the relative knowledge and skill of the
21 participants and shall be determined by accumulated statistical results
22 of the performance of individuals, including athletes in the case of
23 sports events.
24 c. No winning outcome is based on the score, point spread, or any
25 performance of any single actual team or combination of teams or
26 solely on any single performance of an individual athlete or player in
27 any single actual event.
- 28 (4) Location percentage. – The percentage for the operator, rounded to the
29 nearest tenth of a percent (1/10 of 1%), of the total amount of entry fees
30 collected from players located in this State, divided by the total entry fees
31 collected by the operator from all players.
- 32 (5) Net revenue. – The amount equal to the total of all entry fees that an operator
33 collects from all players, less the total of all sums paid out as winnings to all
34 players, multiplied by the location percentage. The term includes the value
35 of any promotional tickets and credits.



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- 1 (6) Operator. – A person or entity that offers fantasy contests to members of the
2 public. The term does not include an Internet service provider or a provider
3 of mobile data services merely as a result of that entity's transporting general
4 traffic that may include a fantasy contest.
- 5 (7) Player. – A person who participates in a fantasy contest offered by an
6 operator.
- 7 (8) Principal stockholder. – Any person who individually, or in concert with the
8 person's spouse and immediate family members, (i) beneficially owns or
9 controls, directly or indirectly, at least fifteen percent (15%) of the equity
10 ownership of an operator or (ii) has the power to vote or cause the vote of at
11 least fifteen percent (15%) of an operator.

12 **§ 78E-3. Application for registration; expiration and renewal.**

13 (a) No fantasy contest shall be offered in this State unless the operator has been
14 registered with the Department.

15 (b) An applicant for registration shall be registered by the Department if the applicant
16 meets all of the following requirements:

- 17 (1) Submission of an application, on a form to be prescribed by the Department,
18 that contains all of the following information:
- 19 a. The name and principal address of the applicant.
20 b. The address of any offices of the applicant in this State and its
21 registered agent within this State. If the applicant does not maintain
22 an office in this State, the name and address of the person having
23 custody of its financial records.
24 c. The location and date the applicant was legally established and the
25 form of its organization.
26 d. The names and addresses of the officers, directors, trustees, and
27 principal salaried executive staff officer.
28 e. The name and address of each principal stockholder of the applicant,
29 if any.
30 f. Any information the Department deems necessary to ensure
31 compliance with the provisions of this Chapter.
- 32 (2) Submission of evidence satisfactory to the Department that the operator has
33 established commercially reasonable procedures for fantasy contests that are
34 intended to do the following:
- 35 a. Prevent the operator and its employees and their immediate family
36 members living in the same household from competing in any public
37 fantasy contest offered by the operator in which a cash prize is
38 offered.
39 b. Prevent the sharing of information by fantasy contest players that has
40 the potential to affect fantasy that is obtained as a result of or by
41 virtue of a person's employment and that is not publicly available.
42 c. Verify that a player is at least 18 years of age.
43 d. Ensure that players participating in a fantasy contest are restricted
44 from entering any fantasy contest where the outcome is determined,
45 in whole or part, on the accumulated statistical results of a team of
46 individuals in which such players are participants.
47 e. Allow individuals, upon request, to restrict themselves from entering
48 a fantasy contest and take reasonable steps to prevent those
49 individuals from entering the operator's fantasy contests.
50 f. Disclose the maximum number of entries a single fantasy contest
51 player may submit to each fantasy contest and take reasonable steps

- 1 to prevent any player from submitting more than the maximum
2 allowable number.
- 3 g. Segregate player funds from operational funds in separate accounts
4 and maintain a reserve in the form of cash, cash equivalents,
5 irrevocable letter of credit, bond, credit card and payment processor
6 accounts and receivables, or a combination thereof, in an amount
7 sufficient to pay all prizes and awards offered to winning
8 participants.
- 9 h. Prevent fantasy contests based on the performances of participants in
10 collegiate, high school, or youth athletic competitions.
- 11 (3) Submission of an initial registration fee equal to ten percent (10%) of the
12 operator's gross fantasy contest revenues from the previous calendar year;
13 provided, however, that the fee shall not be less than two thousand five
14 hundred dollars (\$2,500) or more than ten thousand dollars (\$10,000).
- 15 (c) Registrations issued pursuant to this Chapter shall expire five years after issuance or
16 renewal. The Department shall renew the registration of an operator that submits a completed
17 application in accordance with subsection (b) of this section and a renewal fee equal to the
18 lesser of five thousand dollars (\$5,000) or ten percent (10%) of the operator's net revenue from
19 the previous calendar year.
- 20 (d) An operator applying for registration who has been in continuous operation in this
21 State for at least 180 days as of the effective date of this act may continue to offer fantasy
22 contests to persons located in the State until 60 days after applications for registration are
23 published by the Department. Operators who have applied for registration during that 60-day
24 period may continue to operate while the registration is pending. Operators who have not
25 registered shall cease operations within this State by the expiration of the 60-day period.
- 26 (e) An operator applying for registration or renewal of a registration may operate during
27 the application period unless the Department has reasonable cause to believe that the operator is
28 or may be in violation of the provisions of this Chapter and the Department requires the
29 operator to suspend all fantasy contests until registration or renewal of registration is issued or
30 denied.
- 31 (f) The Department shall issue a registration within 60 days of receipt of the application
32 for registration. If the registration is not issued, the Department shall provide the operator with
33 the justification for not issuing such registration with specificity.
- 34 **§ 78E-4. Denial, revocation, or suspension of registration; hearings; civil penalties.**
- 35 (a) The Department may deny, revoke, or suspend a registration upon determination
36 that an operator, or any officer, partner, principal stockholder, or director of the operator, has
37 done any of the following:
- 38 (1) Knowingly made a false statement of material fact or has deliberately failed
39 to disclose any information requested.
- 40 (2) Committed an illegal, corrupt, or fraudulent act, practice, or conduct in
41 connection with any fantasy contest in any jurisdiction, or has been
42 convicted of a felony, a crime of moral turpitude, or any criminal offense
43 involving dishonesty or breach of trust within 10 years prior to the date of
44 application for registration.
- 45 (3) Knowingly failed to comply with the provisions of this Chapter or of any
46 requirements of the Department.
- 47 (4) Defaulted in the payment of any obligation or debt due to the State.
- 48 (5) Fails to be qualified to do business in this State or is not subject to the
49 jurisdiction of the courts of this State.
- 50 (b) After a hearing with 30 days' notice, the Department may suspend or revoke an
51 operator's registration where a violation of this Chapter has been found by a preponderance of

1 the evidence. In addition, the Department may assess a civil penalty not in excess of one
2 thousand dollars (\$1,000) for any violation of this Chapter demonstrated by a preponderance of
3 the evidence; provided, however, that the penalty shall not exceed ten thousand dollars
4 (\$10,000) for a continuing violation. The clear proceeds of any civil penalty assessed under this
5 section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
6 G.S. 115C-457.2. After a hearing, the Department may revoke a registration if it finds that facts
7 not known by it at the time it considered the application indicate that such registration should
8 not have been issued. For the purposes of this section, a single act or omission by an operator
9 that affects one or more players shall be treated as a single violation.

10 (c) If the Department determines that a violation of this Chapter has occurred and
11 emergency action is required to protect the public health, safety, and welfare, the Department
12 may suspend any registration for a period of not more than seven business days pending a
13 hearing and final determination. The Department shall notify the operator of the date, time, and
14 place of the hearing at least five business days prior to the hearing.

15 (d) If the Department denies, suspends, or revokes a registration, or assesses a civil
16 penalty in accordance with this Chapter, the Department shall issue written notice to the
17 operator. An operator aggrieved by the Department's action may seek review in accordance
18 with Chapter 150B of the General Statutes.

19 **"§ 78E-5. Reporting and audit requirements.**

20 A registered operator shall do all of the following:

- 21 (1) File an annual report with the Department indicating compliance with this
22 Chapter.
- 23 (2) Conduct an independent financial audit and submit to the Department a copy
24 of the independent financial audit report no less frequently than every two
25 years. The audit shall be consistent with the standards established by the
26 American Institute of Certified Public Accountants and may be part of a
27 national audit conducted by a certified public accountant.
- 28 (3) Notify and update the Department of any material change to the information
29 provided in the application for registration under G.S. 78E-4.
- 30 (4) Notify the Department if the operator ceases to offer fantasy contests in this
31 State.

32 **"§ 78E-6. Change of ownership or acquisition of interest in operator.**

33 If any person acquires a controlling interest of a registered operator, that person shall
34 register with the Department in accordance with this act. The operator may continue to operate
35 during the registration period unless the Department has reasonable cause to believe that person
36 is or may be in violation of the provisions of this Chapter. The Department may require the
37 operator to suspend the operation of any fantasy contest until registration is issued or denied.

38 **"§ 78E-7. Powers and duties of the Department.**

39 (a) The Department shall have all powers and duties necessary to carry out the
40 provisions of this Chapter. The Department may, in accordance with Chapter 150B of the
41 General Statutes, adopt rules necessary to carry out the provisions of this Chapter.

42 (b) The Department may apply to the superior court for an injunction to restrain any
43 person from violating the provisions of this Chapter or its rules. Actions under this section shall
44 be brought in the county where the operator maintains its principal place of business or where
45 the alleged acts occurred.

46 (c) Whenever the Department has reasonable cause to believe that a violation of any of
47 the provisions of this Chapter may have occurred, the Department may, upon its own motion or
48 upon complaint of any person, investigate any operator to determine whether a violation has
49 occurred.

50 **"§ 78E-8. Confidential information.**

1 Reports, data, or documents submitted to the Department pursuant to the audit requirements
2 of this Chapter and records submitted to the Department as part of an application for
3 registration or renewal that contain information about the character or financial responsibility
4 of the operator or its principal stockholders are confidential and shall not be considered public
5 records within the meaning of Chapter 132 of the General Statutes.

6 **"§ 78E-9. Fantasy contests not considered gambling.**

7 Fantasy contests conducted pursuant to this Chapter do not constitute gambling, lotteries,
8 gaming, or any activity or enterprise subject to or prohibited by Chapter 14, 16, or 19 of the
9 General Statutes, or any other provision of law. The award of prize money for any fantasy
10 contest shall not be deemed to be part of any gaming contract prohibited pursuant to Chapter 16
11 of the General Statutes.

12 **"§ 78E-10. Operator control of contests.**

13 Nothing in this Chapter shall be construed to limit the ability of an operator to control or
14 conduct its contests or to provide a uniform gameplay platform for players in multiple
15 jurisdictions."

16 **SECTION 2.** G.S. 18B-500 reads as rewritten:

17 **"§ 18B-500. Alcohol law-enforcement agents.**

18 ...

19 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
20 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
21 enforcement actions for any criminal offense. The primary responsibility of an agent shall be
22 enforcement of the ABC and lottery ~~laws~~ laws, as well as the enforcement of the provisions of
23 Chapter 78E of the General Statutes.

24 (c) Territorial Jurisdiction. – An alcohol law-enforcement agent is a State officer with
25 jurisdiction throughout the State.

26 (d) Service of ~~Commission~~ Orders. – Alcohol law-enforcement agents may serve and
27 execute notices, orders, or demands issued by the Secretary of State, pursuant to Chapter 78E
28 of the General Statutes, the Alcoholic Beverage Control Commission or the North Carolina
29 State Lottery Commission for the surrender of permits or relating to any administrative
30 proceeding. While serving and executing such notices, orders, or demands, alcohol
31 law-enforcement agents shall have all the power and authority possessed by law-enforcement
32 officers when executing an arrest warrant.

33"

34 **SECTION 3.** This act becomes effective January 1, 2018.