S T A T E O F N E W Y O R K

8128

I N S E N A T E

June 13, 2016

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to the registration and regulation of interactive fantasy sports contests

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new article 14 to read as follows:

ARTICLE 14

INTERACTIVE FANTASY SPORTS

SECTION 1400. LEGISLATIVE FINDINGS AND PURPOSE.
1401. DEFINITIONS.
1402. REGISTRATION.
1403. SCOPE OF REGISTRATION REVIEW.
1404. REQUIRED SAFEGUARDS, MINIMUM STANDARDS.
1405. POWERS AND DUTIES OF THE COMMISSION.
1406. ANNUAL REPORT.
1407. STATE TAX.

S 1400. LEGISLATIVE FINDINGS AND PURPOSE. 1. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT:

(A) UNDER THE NEW YORK PENAL LAW A PERSON ENGAGES IN GAMBLING WHEN HE OR SHE STAKES OR RISKS SOMETHING OF VALUE UPON THE OUTCOME OF A CONTEST OF CHANCE OR A FUTURE CONTINGENT EVENT NOT UNDER HIS OR HER CONTROL OR INFLUENCE, UPON AN AGREEMENT OR UNDERSTANDING THAT HE OR SHE WILL RECEIVE SOMETHING OF VALUE IN THE EVENT OF A CERTAIN OUTCOME;

(B) INTERACTIVE FANTASY SPORTS IN MANY INSTANCES HAVE BEEN DEFINED AS A GAME OF SKILL AND WERE EXEMPTED FROM THE DEFINITION OF UNLAWFUL INTERNET GAMBLING UNDER THE UNLAWFUL INTERNET GAMBLING ENFORCEMENT ACT OF 2006 (31 U.S.C. S 5362);

(C) INTERACTIVE FANTASY SPORTS ARE A GAME OF SKILL BECAUSE THEY CONSIST OF FANTASY OR SIMULATION SPORTS GAMES OR CONTESTS IN WHICH THE FANTASY OR SIMULATION SPORTS TEAMS ARE SELECTED BASED UPON THE SKILL AND KNOWLEDGE OF THE PARTICIPANTS AND NOT BASED ON THE CURRENT MEMBERSHIP OF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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AN ACTUAL TEAM THAT IS A MEMBER OF AN AMATEUR OR PROFESSIONAL SPORTS ORGANIZATION;

(D) INTERACTIVE FANTASY SPORTS CONTESTS DO NOT CONSTITUTE A WAGER ON A FUTURE CONTINGENT EVENT NOT UNDER THE CONTESTANT'S CONTROL OR INFLUENCE. PARTICIPANTS HAVE CONTROL OVER WHICH PLAYERS THEY CHOOSE AND THE OUTCOME OF EACH CONTEST IS NOT DEPENDENT UPON THE PERFORMANCE OF ANY ONE PLAYER OR ANY ONE ACTUAL TEAM. THE OUTCOME OF ANY FANTASY SPORTS CONTEST DOES NOT CORRESPOND TO THE OUTCOME OF ANY ONE SPORTING EVENT. INSTEAD, THE OUTCOME DEPENDS ON HOW THE PERFORMANCES OF PARTICIPANTS' FANTASY ROSTER CHOICES COMPARE TO THE PERFORMANCE OF OTHERS' ROSTER CHOICES.

2. BASED ON THE FINDINGS IN SUBDIVISION ONE OF THIS SECTION, THE LEGISLATURE DECLARES THAT INTERACTIVE FANTASY SPORTS DO NOT CONSTITUTE GAMBLING AND THEREFORE ARE NOT PROHIBITED BY THE PENAL LAW. SPECIFICALLY, AS GAMES OF SKILL, AND GIVEN THE INFLUENCE THAT PARTICIPANTS HAVE OVER THE OUTCOME, INTERACTIVE FANTASY SPORTS CONTESTS DO NOT FALL UNDER THE DEFINITION OF GAMBLING IN SECTION 225.00 OF THE PENAL LAW.

3. THE LEGISLATURE FURTHER FINDS THAT AS THE INTERNET HAS BECOME AN INTEGRAL PART OF SOCIETY, AND INTERACTIVE FANTASY SPORTS A MAJOR FORM OF ENTERTAINMENT FOR MANY CONSUMERS, ANY INTERACTIVE FANTASY SPORTS ENFORCEMENT AND REGULATORY STRUCTURE MUST BEGIN FROM THE BEDROCK PREMISE THAT PARTICIPATION IN A LAWFUL AND LICENSED INTERACTIVE FANTASY SPORTS INDUSTRY IS A PRIVILEGE AND NOT A RIGHT, AND THAT REGULATORY OVERSIGHT IS INTENDED TO SAFEGUARD THE INTEGRITY OF THE GAMES AND PARTICIPANTS AND TO ENSURE ACCOUNTABILITY AND THE PUBLIC TRUST.

S 1401. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AUTHORIZED PLAYER" SHALL MEAN AN INDIVIDUAL LOCATED IN NEW YORK STATE, WHO IS NOT A PROHIBITED PLAYER, THAT PARTICIPATES IN AN INTERACTIVE FANTASY SPORTS CONTEST OFFERED BY A REGISTRANT.

2. "COLLEGIATE SPORT OR ATHLETIC EVENT" SHALL MEAN A SPORT OR ATHLETIC EVENT OFFERED OR SPONSORED BY OR PLAYED IN CONNECTION WITH A PUBLIC OR PRIVATE INSTITUTION THAT OFFERS EDUCATION SERVICES BEYOND THE SECONDARY LEVEL.

3. "COMMISSION" SHALL MEAN THE NEW YORK STATE GAMING COMMISSION.

4. "ENTRY FEE" SHALL MEAN CASH OR CASH EQUIVALENT THAT IS PAID BY AN AUTHORIZED PLAYER TO AN OPERATOR OR REGISTRANT TO PARTICIPATE IN AN INTERACTIVE FANTASY SPORTS CONTEST OFFERED BY SUCH OPERATOR OR REGISTRANT.

5. "HIGH SCHOOL SPORT OR ATHLETIC EVENT" SHALL MEAN A SPORT OR ATHLETIC EVENT OFFERED OR SPONSORED BY OR PLAYED IN CONNECTION WITH A PUBLIC OR PRIVATE INSTITUTION THAT OFFERS EDUCATION SERVICES AT THE SECONDARY LEVEL.

6. "HIGHLY EXPERIENCED PLAYER" SHALL MEAN AN AUTHORIZED PLAYER WHO HAS:

(A) ENTERED MORE THAN ONE THOUSAND CONTESTS OFFERED BY A SINGLE OPERATOR OR REGISTRANT; OR

(B) WON MORE THAN THREE PRIZES VALUED AT ONE THOUSAND DOLLARS OR MORE FROM A SINGLE OPERATOR OR REGISTRANT; AND

(C) ONCE AN AUTHORIZED PLAYER IS CLASSIFIED AS A HIGHLY EXPERIENCED PLAYER, SUCH PLAYER SHALL REMAIN CLASSIFIED AS SUCH.

7. "HORSE RACING EVENT" SHALL MEAN ANY SPORT OR ATHLETIC EVENT CONDUCTED IN NEW YORK STATE SUBJECT TO THE PROVISIONS OF THIS CHAPTER, OR ANY SPORT OR ATHLETIC EVENT CONDUCTED OUTSIDE OF NEW YORK STATE, WHICH IF CONDUCTED IN NEW YORK STATE WOULD BE SUBJECT TO THE PROVISIONS OF THIS CHAPTER.

8. "INTERACTIVE FANTASY SPORTS CONTEST" OR "CONTEST" SHALL MEAN ANY ONLINE FANTASY OR SIMULATION SPORTS GAME OR CONTEST OFFERED BY AN OPERATOR OR REGISTRANT IN WHICH AN AUTHORIZED PLAYER PAYS AN ENTRY FEE AND MANAGES A FANTASY OR SIMULATION SPORTS TEAM COMPOSED OF ATHLETES FROM AN AMATEUR OR PROFESSIONAL SPORTS ORGANIZATION AND WHICH MEETS THE FOLLOWING CONDITIONS:

(A) THE VALUE OF ANY PRIZES AND AWARDS OFFERED TO AUTHORIZED PLAYERS SHALL BE ESTABLISHED AND MADE KNOWN TO SUCH PLAYERS IN ADVANCE OF THE CONTEST, AND SUCH VALUE SHALL NOT BE DETERMINED BY THE NUMBER OF AUTHORIZED PLAYERS OR THE AMOUNT OF ANY ENTRY FEES PAID BY SUCH PLAYERS;

(B) ALL WINNING OUTCOMES REFLECT THE RELATIVE KNOWLEDGE AND SKILL OF THE AUTHORIZED PLAYERS AND SHALL BE DETERMINED PREDOMINANTLY BY ACCUMULATED STATISTICAL RESULTS OF THE PERFORMANCE OF INDIVIDUALS, INCLUDING ATHLETES IN THE CASE OF SPORTS EVENTS;

(C) NO WINNING OUTCOME SHALL BE BASED ON THE SCORE, POINT SPREAD, OR PERFORMANCE OF A SINGLE SPORTS TEAM, OR ANY COMBINATION OF SUCH TEAMS;

(D) NO WINNING OUTCOME SHALL BE BASED SOLELY ON ANY SINGLE PERFORMANCE OF AN INDIVIDUAL ATHLETE IN A SINGLE SPORT OR ATHLETIC EVENT; AND

(E) NO GAME OR CONTEST SHALL BE BASED ON A PROHIBITED SPORTS EVENT.

9. "INTERACTIVE FANTASY SPORTS REVENUE" SHALL MEAN THE AMOUNT EQUAL TO THE TOTAL OF ALL ENTRY FEES THAT A REGISTRANT COLLECTS FROM ALL PLAYERS, LESS THE TOTAL OF ALL SUMS PAID OUT AS WINNINGS TO ALL PLAYERS, MULTIPLIED BY THE RESIDENT PERCENTAGE FOR NEW YORK STATE; PROVIDED, HOWEVER, THAT THE TOTAL OF ALL SUMS PAID OUT AS WINNINGS TO PLAYERS SHALL NOT INCLUDE THE CASH EQUIVALENT VALUE OF ANY MERCHANDISE OR THING OF VALUE AWARDED AS A PRIZE. THE ISSUANCE TO OR PARTICIPATION BY AUTHORIZED PLAYERS OF AN INTERACTIVE FANTASY SPORTS CONTEST OF ANY PROMOTIONAL GAMING CREDIT SHALL NOT BE TAXABLE FOR THE PURPOSES OF DETERMINING INTERACTIVE FANTASY SPORTS REVENUE.

10. "INTERACTIVE FANTASY SPORTS OPERATOR" OR "OPERATOR" SHALL MEAN ANY PERSON OR ENTITY THAT OFFERS ANY INTERACTIVE FANTASY SPORTS CONTEST TO ANY AUTHORIZED PLAYER THROUGH ANY INTERACTIVE FANTASY SPORTS PLATFORM.

11. "INTERACTIVE FANTASY SPORTS PLATFORM" OR "PLATFORM" SHALL MEAN THE COMBINATION OF HARDWARE, SOFTWARE, AND DATA NETWORKS USED TO MANAGE, ADMINISTER, OR CONTROL CONTESTS AND ANY ASSOCIATED ENTRY FEES.

12. "INTERACTIVE FANTASY SPORTS REGISTRANT" OR "REGISTRANT" SHALL MEAN AN OPERATOR THAT IS REGISTERED BY THE COMMISSION. A REGISTRANT MAY UTILIZE MULTIPLE INTERACTIVE FANTASY SPORTS PLATFORMS AND OFFER MULTIPLE CONTESTS, PROVIDED THAT EACH PLATFORM AND EACH CONTEST HAS BEEN REVIEWED AND APPROVED BY THE COMMISSION.

13. "MINOR" SHALL MEAN ANY PERSON UNDER THE AGE OF EIGHTEEN YEARS.

14. "PROHIBITED PLAYER" SHALL MEAN:

(A) ANY MEMBER, OFFICER, EMPLOYEE OR AGENT OF AN OPERATOR OR REGISTRANT;

(B) ANY SPOUSE, CHILD, BROTHER, SISTER OR PARENT RESIDING AS A MEMBER OF THE SAME HOUSEHOLD IN THE PRINCIPAL PLACE OF ABODE OF ANY MEMBER, OFFICER, EMPLOYEE OR AGENT OF AN OPERATOR OR REGISTRANT;

(C) ANY INDIVIDUAL WITH ACCESS TO NON-PUBLIC CONFIDENTIAL INFORMATION ABOUT CONTESTS;

(D) ANY AMATEUR OR PROFESSIONAL ATHLETE WHOSE PERFORMANCE MAY BE USED TO DETERMINE THE OUTCOME OF A CONTEST;

(E) ANY SPORTS AGENT, TEAM EMPLOYEE, REFEREE, OR LEAGUE OFFICIAL ASSOCIATED WITH ANY SPORT OR ATHLETIC EVENT ON WHICH CONTESTS ARE BASED;

(F) ANY INDIVIDUAL LOCATED IN A STATE WHERE THE CONDUCT OF CONTESTS IS EXPRESSLY PROHIBITED; OR

(G) ANY MINOR.

15. "PROHIBITED SPORTS EVENT" SHALL MEAN ANY COLLEGIATE SPORT OR ATHLETIC EVENT, ANY HIGH SCHOOL SPORT OR ATHLETIC EVENT, OR ANY HORSE RACING EVENT.

16. "RESIDENT PERCENTAGE" SHALL MEAN, FOR EACH INTERACTIVE FANTASY SPORTS CONTEST, THE PERCENTAGE, ROUNDED TO THE NEAREST TENTH OF A PERCENT, OF THE TOTAL ENTRY FEES COLLECTED FROM PLAYERS LOCATED IN NEW YORK STATE, DIVIDED BY THE TOTAL ENTRY FEES COLLECTED FROM ALL PLAYERS IN THE INTERACTIVE FANTASY SPORTS CONTEST.

17. "SEASON-LONG INTERACTIVE FANTASY SPORTS CONTEST" MEANS ANY INTERACTIVE FANTASY SPORTS CONTEST OFFERED BY AN OPERATOR OR REGISTRANT THAT IS CONDUCTED OVER AN ENTIRE SPORTS SEASON WHERE ANY ENTRY FEES ARE PAID PRIOR TO THE START OF THE SEASON.

18. "SPORTS EVENT" SHALL MEAN ANY AMATEUR OR PROFESSIONAL SPORT OR ATHLETIC EVENT, EXCEPT A PROHIBITED SPORTS EVENT.

S 1402. REGISTRATION. 1. (A) NO OPERATOR SHALL ADMINISTER, MANAGE, OR OTHERWISE MAKE AVAILABLE AN INTERACTIVE FANTASY SPORTS PLATFORM TO PERSONS LOCATED IN NEW YORK STATE UNLESS REGISTERED WITH THE COMMISSION PURSUANT TO SECTION FOURTEEN HUNDRED THREE OF THIS ARTICLE. A REGISTRANT MAY UTILIZE MULTIPLE INTERACTIVE FANTASY SPORTS PLATFORMS AND OFFER MULTIPLE TYPES OF CONTESTS, PROVIDED THAT EACH PLATFORM AND EACH TYPE OF CONTEST HAS BEEN REVIEWED AND APPROVED BY THE COMMISSION. THIS ARTICLE, AND ANY AND ALL RULES AND REGULATIONS ADOPTED UNDER THE AUTHORITY OF THIS ARTICLE, SHALL ONLY APPLY TO INTERACTIVE FANTASY SPORTS CONTESTS FOR WHICH AN AUTHORIZED PLAYER PAYS AN ENTRY FEE, AND SHALL NOT APPLY TO SEASON-LONG INTERACTIVE FANTASY SPORTS CONTESTS.

(B) ANY OPERATOR THAT WAS OFFERING CONTESTS TO PERSONS LOCATED IN NEW YORK STATE PRIOR TO THE TENTH OF NOVEMBER, TWO THOUSAND FIFTEEN, MAY CONTINUE TO OFFER CONTESTS TO PERSONS LOCATED IN NEW YORK STATE UNTIL SUCH OPERATOR'S APPLICATION FOR REGISTRATION HAS BEEN APPROVED OR DENIED IN ACCORDANCE WITH SECTION FOURTEEN HUNDRED THREE OF THIS ARTICLE, PROVIDED THAT SUCH OPERATOR FILES AN APPLICATION FOR REGISTRATION WITH THE COMMISSION WITHIN NINETY DAYS OF THE PROMULGATION OF REGULATIONS TO EFFECTUATE THIS ARTICLE.

2. THE COMMISSION SHALL PROVIDE A TEMPORARY PERMIT TO EACH OPERATOR THAT WAS OFFERING CONTESTS PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION TO ALLOW SUCH OPERATOR TO CONTINUE TO OFFER SUCH CONTESTS, ON A PROVISIONAL BASIS, UNTIL SUCH OPERATOR'S APPLICATION FOR REGISTRATION HAS BEEN APPROVED OR DENIED IN ACCORDANCE WITH SECTION FOURTEEN HUNDRED THREE OF THIS ARTICLE, PROVIDED THAT SUCH OPERATOR CONTINUES TO MEET ALL THE REQUIREMENTS IN SECTION FOURTEEN HUNDRED FOUR OF THIS ARTICLE.

3. THE COMMISSION SHALL REQUIRE EACH APPROVED REGISTRANT TO PAY AN INITIAL REGISTRATION FEE EQUAL TO THE LESSER OF ONE HUNDRED FIFTY THOUSAND DOLLARS OR ONE AND ONE-HALF PERCENT OF THE INTERACTIVE FANTASY SPORTS REVENUE GENERATED BY SUCH REGISTRANT IN THE PRECEDING FISCAL YEAR; PROVIDED, HOWEVER, IF SUCH APPROVED REGISTRANT DID NOT GENERATE ANY INTERACTIVE FANTASY SPORTS REVENUE IN THE PRECEDING FISCAL YEAR, SUCH REGISTRANT SHALL NOT BE REQUIRED TO PAY AN INITIAL REGISTRATION FEE PURSUANT TO THIS SUBDIVISION.

4. REGISTRATIONS ISSUED BY THE COMMISSION SHALL REMAIN IN EFFECT FOR THREE YEARS. THE COMMISSION SHALL ESTABLISH A PROCESS FOR RENEWAL, AND EACH REGISTRANT SHALL PAY A RENEWAL FEE EQUAL TO THE LESSER OF ONE HUNDRED FIFTY THOUSAND DOLLARS OR ONE AND ONE-HALF PERCENT OF THE INTERACTIVE FANTASY SPORTS REVENUE GENERATED BY SUCH REGISTRANT IN THE PRECEDING FISCAL YEAR; PROVIDED, HOWEVER, IF SUCH APPROVED REGISTRANT DID NOT GENERATE ANY INTERACTIVE FANTASY SPORTS REVENUE IN THE PRECEDING

FISCAL YEAR, SUCH REGISTRANT SHALL NOT BE REQUIRED TO PAY A RENEWAL FEE PURSUANT TO THIS SUBDIVISION.

5. ALL REGISTRATION AND RENEWAL FEES RECEIVED BY THE COMMISSION PURSUANT TO THIS SECTION SHALL BE DEPOSITED INTO THE GENERAL FUND.

6. THE COMMISSION SHALL PUBLISH A LIST OF ALL OPERATORS REGISTERED IN NEW YORK STATE PURSUANT TO THIS SECTION ON THE COMMISSION'S WEBSITE FOR PUBLIC USE.

7. THE COMMISSION SHALL PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE, INCLUDING THE DEVELOPMENT OF THE INITIAL FORM OF THE APPLICATION FOR REGISTRATION. SUCH REGULATIONS SHALL PROVIDE FOR THE REGISTRATION AND OPERATION OF CONTESTS IN NEW YORK STATE AND SHALL INCLUDE, BUT NOT BE LIMITED TO, RESPONSIBLE PROTECTIONS WITH REGARD TO COMPULSIVE PLAY AND SAFEGUARDS FOR FAIR PLAY.

S 1403. SCOPE OF REGISTRATION REVIEW. 1. THE COMMISSION SHALL PRESCRIBE THE INITIAL FORM OF THE APPLICATION FOR REGISTRATION WHICH SHALL REQUIRE, BUT NOT BE LIMITED TO:

(A) THE FULL NAME AND PRINCIPAL ADDRESS OF THE OPERATOR;

(B) IF A CORPORATION, THE NAME OF THE STATE IN WHICH INCORPORATED AND THE FULL NAMES AND ADDRESSES OF ANY PARTNER, OFFICER, DIRECTOR, SHAREHOLDER HOLDING TEN PERCENT OR MORE EQUITY, AND ULTIMATE EQUITABLE OWNERS;

(C) IF A BUSINESS ENTITY OTHER THAN A CORPORATION, THE FULL NAMES AND ADDRESSES OF THE PRINCIPALS, PARTNERS, SHAREHOLDERS HOLDING FIVE PERCENT OR MORE EQUITY, AND ULTIMATE EQUITABLE OWNERS;

(D) WHETHER SUCH CORPORATION OR ENTITY FILES INFORMATION AND REPORTS WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION AS REQUIRED BY SECTION THIRTEEN OF THE SECURITIES EXCHANGE ACT OF 1934, 15 U.S.C. SS 78A-78KK; OR WHETHER THE SECURITIES OF THE CORPORATION OR ENTITY ARE REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET IN THE UNITED STATES;

(E) THE TYPE AND ESTIMATED NUMBER OF CONTESTS TO BE CONDUCTED ANNUALLY;

(F) A STATEMENT OF THE ASSETS AND LIABILITIES OF THE OPERATOR.

2. THE COMMISSION MAY REQUIRE THE FULL NAMES AND ADDRESSES OF THE OFFICERS AND DIRECTORS OF ANY CREDITOR OF THE OPERATOR, AND OF THOSE STOCKHOLDERS WHO HOLD MORE THAN TEN PERCENT OF THE STOCK OF THE CREDITOR.

3. UPON RECEIPT OF AN APPLICATION FOR REGISTRATION FOR EACH INDIVIDUAL LISTED ON SUCH APPLICATION AS AN OFFICER OR DIRECTOR, THE COMMISSION SHALL SUBMIT TO THE DIVISION OF CRIMINAL JUSTICE SERVICES A SET OF FINGERPRINTS, AND THE DIVISION OF CRIMINAL JUSTICE SERVICES PROCESSING FEE IMPOSED PURSUANT TO SUBDIVISION EIGHT-A OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW AND ANY FEE IMPOSED BY THE FEDERAL BUREAU OF INVESTIGATION. UPON RECEIPT OF THE FINGERPRINTS, THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROMPTLY FORWARD A SET OF THE INDIVIDUAL'S FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF A NATIONWIDE CRIMINAL HISTORY RECORD CHECK TO DETERMINE WHETHER SUCH INDIVIDUAL HAS BEEN CONVICTED OF A CRIMINAL OFFENSE IN ANY STATE OTHER THAN NEW YORK OR IN A FEDERAL JURISDICTION. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL PROMPTLY PROVIDE THE REQUESTED CRIMINAL HISTORY INFORMATION TO THE COMMISSION. FOR THE PURPOSES OF THIS SECTION, THE TERM "CRIMINAL HISTORY INFORMATION" SHALL MEAN A RECORD OF ALL CONVICTIONS OF CRIMES AND ANY PENDING CRIMINAL CHARGES MAINTAINED ON AN INDIVIDUAL BY THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION. ALL SUCH CRIMINAL HISTORY INFORMATION SENT TO THE COMMISSION PURSUANT TO THIS SUBDIVISION SHALL BE CONFIDENTIAL AND

SHALL NOT BE PUBLISHED OR IN ANY WAY DISCLOSED TO PERSONS OTHER THAN THE COMMISSION, UNLESS OTHERWISE AUTHORIZED BY LAW.

4. UPON RECEIPT OF CRIMINAL HISTORY INFORMATION PURSUANT TO SUBDIVISION THREE OF THIS SECTION, THE COMMISSION SHALL MAKE A DETERMINATION TO APPROVE OR DENY AN APPLICATION FOR REGISTRATION; PROVIDED, HOWEVER, THAT BEFORE MAKING A DETERMINATION ON SUCH APPLICATION, THE COMMISSION SHALL PROVIDE THE SUBJECT OF THE RECORD WITH A COPY OF SUCH CRIMINAL HISTORY INFORMATION AND A COPY OF ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW AND INFORM SUCH PROSPECTIVE APPLICANT SEEKING TO BE CREDENTIALED OF HIS OR HER RIGHT TO SEEK CORRECTION OF ANY INCORRECT INFORMATION CONTAINED IN SUCH CRIMINAL HISTORY INFORMATION PURSUANT TO THE REGULATIONS AND PROCEDURES ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE SERVICES. THE COMMISSION SHALL DENY ANY APPLICATION FOR REGISTRATION, OR SUSPEND, REFUSE TO RENEW, OR REVOKE ANY EXISTING REGISTRATION ISSUED PURSUANT TO THIS ARTICLE, UPON THE FINDING THAT THE OPERATOR OR REGISTRANT, OR ANY PARTNER, OFFICER, DIRECTOR, OR SHAREHOLDER:

(A) HAS KNOWINGLY MADE A FALSE STATEMENT OF MATERIAL FACT OR HAS DELIBERATELY FAILED TO DISCLOSE ANY INFORMATION REQUIRED BY THE COMMISSION;

(B) HAS HAD A REGISTRATION OR LICENSE TO OFFER OR CONDUCT CONTESTS DENIED, SUSPENDED, OR REVOKED IN ANY OTHER STATE OR COUNTRY FOR JUST CAUSE;

(C) HAS LEGALLY DEFAULTED IN THE PAYMENT OF ANY OBLIGATION OR DEBT DUE TO ANY STATE OR POLITICAL SUBDIVISION; OR

(D) HAS AT ANY TIME KNOWINGLY FAILED TO COMPLY WITH ANY REQUIREMENT OUTLINED IN SECTION FOURTEEN HUNDRED FOUR OF THIS ARTICLE, ANY OTHER PROVISION OF THIS ARTICLE, ANY REGULATIONS PROMULGATED BY THE COMMISSION TO EFFECTUATE THIS ARTICLE, OR ANY ADDITIONAL REQUIREMENTS OF THE COMMISSION.

5. ALL DETERMINATIONS TO APPROVE OR DENY AN APPLICATION PURSUANT TO THIS ARTICLE SHALL BE PERFORMED IN A MANNER CONSISTENT WITH SUBDIVISION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW. WHEN THE COMMISSION DENIES AN APPLICATION, THE OPERATOR SHALL BE AFFORDED NOTICE AND THE RIGHT TO BE HEARD AND OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION IN ACCORDANCE WITH THE REGULATIONS OF THE COMMISSION.

S 1404. REQUIRED SAFEGUARDS, MINIMUM STANDARDS. 1. AS A CONDITION OF REGISTRATION IN NEW YORK STATE, EACH OPERATOR AND REGISTRANT SHALL IMPLEMENT THE FOLLOWING MEASURES:

(A) LIMIT EACH AUTHORIZED PLAYER TO ONE ACTIVE AND CONTINUOUSLY USED ACCOUNT, AND PREVENT PROHIBITED PLAYERS FROM MAINTAINING ACCOUNTS OR PARTICIPATING IN ANY CONTEST OFFERED BY SUCH OPERATOR OR REGISTRANT;

(B) PROHIBIT MINORS FROM PARTICIPATING IN ANY CONTEST, WHICH INCLUDES:

(I) IF A REGISTRANT BECOMES OR IS MADE AWARE THAT A MINOR HAS PARTICIPATED IN ONE OF ITS CONTESTS, SUCH REGISTRANT SHALL PROMPTLY, WITHIN NO MORE THAN TWO BUSINESS DAYS, REFUND ANY DEPOSIT RECEIVED FROM THE MINOR, WHETHER OR NOT THE MINOR HAS ENGAGED IN OR ATTEMPTED TO ENGAGE IN A CONTEST; PROVIDED, HOWEVER, THAT ANY REFUND MAY BE OFFSET BY ANY PRIZES ALREADY AWARDED;

(II) EACH REGISTRANT SHALL PUBLISH AND FACILITATE PARENTAL CONTROL PROCEDURES TO ALLOW PARENTS OR GUARDIANS TO EXCLUDE MINORS FROM ACCESS TO ANY CONTEST OR PLATFORM. SUCH PROCEDURES SHALL INCLUDE A TOLL-FREE NUMBER TO CALL FOR HELP IN ESTABLISHING SUCH PARENTAL CONTROLS; AND

(III) EACH REGISTRANT SHALL TAKE APPROPRIATE STEPS TO CONFIRM THAT AN INDIVIDUAL OPENING AN ACCOUNT IS NOT A MINOR.

(C) WHEN REFERENCING THE CHANCES OR LIKELIHOOD OF WINNING IN ADVERTISEMENTS OR UPON CONTEST ENTRY, MAKE CLEAR AND CONSPICUOUS STATEMENTS THAT ARE NOT INACCURATE OR MISLEADING CONCERNING THE CHANCES OF WINNING AND THE NUMBER OF WINNERS;

(D) ENABLE AUTHORIZED PLAYERS TO EXCLUDE THEMSELVES FROM CONTESTS AND TAKE REASONABLE STEPS TO PREVENT SUCH PLAYERS FROM ENTERING A CONTEST FROM WHICH THEY HAVE EXCLUDED THEMSELVES;

(E) PERMIT ANY AUTHORIZED PLAYER TO PERMANENTLY CLOSE AN ACCOUNT REGISTERED TO SUCH PLAYER, ON ANY AND ALL PLATFORMS SUPPORTED BY SUCH OPERATOR OR REGISTRANT, AT ANY TIME AND FOR ANY REASON;

(F) OFFER INTRODUCTORY PROCEDURES FOR AUTHORIZED PLAYERS, THAT SHALL BE PROMINENTLY DISPLAYED ON THE MAIN PAGE OF SUCH OPERATOR OR REGISTRANT'S PLATFORM, THAT EXPLAIN CONTEST PLAY AND HOW TO IDENTIFY A HIGHLY EXPERIENCED PLAYER;

(G) IDENTIFY ALL HIGHLY EXPERIENCED PLAYERS IN ANY CONTEST BY A SYMBOL ATTACHED TO SUCH PLAYERS' USERNAMES, OR BY OTHER EASILY VISIBLE MEANS, ON ALL PLATFORMS SUPPORTED BY SUCH OPERATOR OR REGISTRANT;

(H) DISCLOSE THE NUMBER OF ENTRIES A SINGLE AUTHORIZED PLAYER MAY SUBMIT TO EACH CONTEST;

(I) DISCLOSE THE MAXIMUM NUMBER OF TOTAL ENTRIES ALLOWED FOR EACH CONTEST;

(J) IMPLEMENT MEASURES TO PROTECT THE PRIVACY AND ONLINE SECURITY OF AUTHORIZED PLAYERS AND THEIR ACCOUNTS;

(K) OFFER ALL AUTHORIZED PLAYERS ACCESS TO HIS OR HER ACCOUNT HISTORY AND ACCOUNT DETAILS;

(L) ENSURE AUTHORIZED PLAYERS' FUNDS ARE PROTECTED UPON DEPOSIT AND SEGREGATED FROM THE OPERATING FUNDS OF SUCH OPERATOR OR REGISTRANT AND OTHERWISE PROTECTED FROM CORPORATE INSOLVENCY, FINANCIAL RISK, OR CRIMINAL OR CIVIL ACTIONS AGAINST SUCH OPERATOR OR REGISTRANT;

(M) LIST ON EACH WEBSITE, IN A PROMINENT PLACE, INFORMATION CONCERNING ASSISTANCE FOR COMPULSIVE PLAY IN NEW YORK STATE, INCLUDING A TOLL-FREE NUMBER DIRECTING CALLERS TO REPUTABLE RESOURCES CONTAINING FURTHER INFORMATION, WHICH SHALL BE FREE OF CHARGE.

2. EACH REGISTRANT SHALL RESTRICT THE NUMBER OF ENTRIES SUBMITTED BY A SINGLE AUTHORIZED PLAYER FOR ANY CONTEST TO A MAXIMUM OF ONE HUNDRED FIFTY ENTRIES PER PLAYER PER CONTEST, OR A MAXIMUM OF THREE PERCENT OF THE TOTAL NUMBER OF ENTRIES BY ALL PLAYERS FOR ANY CONTEST, WHICHEVER IS LESS. REGISTRANTS SHALL TAKE REASONABLE STEPS TO PREVENT AUTHORIZED PLAYERS FROM SUBMITTING MORE THAN THE ALLOWABLE NUMBER OF ENTRIES PER CONTEST.

3. (A) OPERATORS SHALL NOT DIRECTLY OR INDIRECTLY OPERATE, PROMOTE, OR ADVERTISE ANY PLATFORM OR CONTEST TO PERSONS LOCATED IN NEW YORK STATE UNLESS REGISTERED PURSUANT TO THIS ARTICLE.

(B) UNLESS OTHERWISE APPROVED BY REGULATION OF THE COMMISSION, OPERATORS AND REGISTRANTS SHALL NOT DIRECTLY OR INDIRECTLY PROMOTE OR ADVERTISE ANY ONLINE FANTASY OR SIMULATION SPORTS GAMES OR CONTESTS WITH AN ENTRY FEE DURING THE CONDUCT OF ANY ONLINE FANTASY OR SIMULATION SPORTS GAMES OR CONTESTS WITHOUT AN ENTRY FEE. THIS PARAGRAPH SHALL NOT APPLY TO ANY OPERATOR OR REGISTRANT THAT PROHIBITS PROHIBITED PLAYERS FROM PARTICIPATING IN ONLINE FANTASY OR SIMULATION SPORTS GAMES OR CONTESTS WITHOUT AN ENTRY FEE.

4. REGISTRANTS SHALL NOT OFFER ANY CONTEST BASED ON ANY PROHIBITED SPORTS EVENT.

5. REGISTRANTS SHALL NOT PERMIT ANY MINOR OR PROHIBITED PARTICIPANT TO ENTER ANY CONTEST.

6. ADVERTISEMENTS FOR CONTESTS AND PRIZES OFFERED BY A REGISTRANT SHALL NOT TARGET PROHIBITED PARTICIPANTS, MINORS, OR SELF-EXCLUDED PERSONS. REPRESENTATIONS OR IMPLICATIONS ABOUT AVERAGE WINNINGS FROM CONTESTS SHALL NOT BE UNFAIR OR MISLEADING. SUCH REPRESENTATIONS SHALL INCLUDE, AT A MINIMUM:

(A) THE MEDIAN AND MEAN NET WINNINGS OF ALL AUTHORIZED PLAYERS PARTICIPATING IN CONTESTS OFFERED BY SUCH REGISTRANT; AND

(B) THE PERCENTAGE OF WINNINGS AWARDED BY THE REGISTRANT TO HIGHLY EXPERIENCED PLAYERS PARTICIPATING IN CONTESTS OFFERED BY SUCH REGISTRANT WITHIN THE PRECEDING CALENDAR YEAR.

7. REGISTRANTS SHALL PROHIBIT THE USE OF THIRD-PARTY SCRIPTS OR SCRIPTING PROGRAMS FOR ANY CONTEST AND ENSURE THAT MEASURES ARE IN PLACE TO DETER, DETECT AND, TO THE EXTENT REASONABLY POSSIBLE, PREVENT CHEATING, INCLUDING COLLUSION, AND THE USE OF CHEATING DEVICES, INCLUDING USE OF SOFTWARE PROGRAMS THAT SUBMIT ENTRY FEES OR ADJUST THE ATHLETES SELECTED BY AN AUTHORIZED PLAYER.

8. OPERATORS AND REGISTRANTS SHALL DEVELOP AND PROMINENTLY DISPLAY PROCEDURES ON THE MAIN PAGE OF SUCH OPERATOR'S OR REGISTRANT'S PLATFORM FOR THE FILING OF A COMPLAINT BY THE AUTHORIZED PLAYER AGAINST SUCH REGISTRANT. AN INITIAL RESPONSE SHALL BE GIVEN BY SUCH REGISTRANT TO SUCH PLAYER FILING THE COMPLAINT WITHIN FORTY-EIGHT HOURS. A COMPLETE RESPONSE SHALL BE GIVEN BY SUCH REGISTRANT TO SUCH PLAYER FILING THE COMPLAINT WITHIN TEN BUSINESS DAYS. AN AUTHORIZED PLAYER MAY FILE A COMPLAINT ALLEGING A VIOLATION OF THE PROVISIONS OF THIS ARTICLE WITH THE COMMISSION.

9. REGISTRANTS SHALL MAINTAIN RECORDS OF ALL ACCOUNTS BELONGING TO AUTHORIZED PLAYERS AND RETAIN SUCH RECORDS FOR FIVE YEARS FROM THE DATE AN ACCOUNT WAS CREATED.

S 1405. POWERS AND DUTIES OF THE COMMISSION. 1. THE COMMISSION SHALL PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE. SUCH REGULATIONS SHALL PROVIDE FOR THE REGISTRATION AND OPERATION OF CONTESTS IN NEW YORK STATE AND SHALL INCLUDE, BUT NOT BE LIMITED TO, RESPONSIBLE PROTECTIONS WITH REGARD TO COMPULSIVE PLAY AND SAFEGUARDS FOR FAIR PLAY.

2. THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES FOR PURPOSES OF ADMINISTERING, REGULATING, AND ENFORCING THE PROVISIONS OF THIS ARTICLE:

(A) ALL POWERS AND DUTIES ASSIGNED BY THIS ARTICLE, AS WELL AS ALL POWERS NECESSARY AND PROPER TO FULLY AND EFFECTIVELY EXECUTE THIS ARTICLE;

(B) TO APPROVE AND DENY APPLICATIONS FOR REGISTRATION TO CONDUCT CONTESTS IN NEW YORK STATE, AND TO SUSPEND, REFUSE OR RENEW, OR REVOKE ANY REGISTRATION ISSUED TO A REGISTRANT UNDER THIS ARTICLE;

(C) TO REVIEW AND APPROVE EACH PLATFORM AND EACH CONTEST OFFERED BY AN OPERATOR OR REGISTRANT;

(D) TO ACCEPT AND INVESTIGATE COMPLAINTS OF ANY KIND FROM AN AUTHORIZED PLAYER AND ATTEMPT TO MEDIATE SUCH COMPLAINTS WHERE APPROPRIATE;

(E) TO INVESTIGATE ALLEGED VIOLATIONS OF THIS ARTICLE;

(F) TO INITIATE PROPER ENFORCEMENT PROCEEDINGS WHERE SUCH ACTION IS DEEMED BY THE COMMISSION TO BE NECESSARY OR APPROPRIATE; AND

(G) ALL POWERS AND DUTIES ASSIGNED BY THIS CHAPTER.

S 1406. ANNUAL REPORT. 1. EACH REGISTRANT SHALL ANNUALLY SUBMIT A REPORT TO THE COMMISSION NO LATER THAN THE THIRTIETH OF JUNE OF EACH YEAR, WHICH SHALL INCLUDE THE FOLLOWING INFORMATION AS IT SHALL APPLY TO ACCOUNTS HELD BY AUTHORIZED PLAYERS LOCATED IN NEW YORK STATE:

(A) THE NUMBER OF ACCOUNTS HELD BY AUTHORIZED PLAYERS ON ALL PLATFORMS OFFERED BY THE REGISTRANT, AND THE NUMBER OF ACCOUNTS HELD BY HIGHLY EXPERIENCED PLAYERS ON ALL PLATFORMS OFFERED BY THE REGISTRANT;

(B) THE TOTAL NUMBER OF NEW ACCOUNTS ESTABLISHED IN THE PRECEDING YEAR, AS WELL AS THE TOTAL NUMBER OF ACCOUNTS PERMANENTLY CLOSED IN THE PRECEDING YEAR;

(C) THE TOTAL AMOUNT OF ENTRY FEES RECEIVED FROM AUTHORIZED PLAYERS;

(D) THE TOTAL AMOUNT OF PRIZES AWARDED TO AUTHORIZED PLAYERS;

(E) THE TOTAL AMOUNT OF INTERACTIVE FANTASY SPORTS REVENUE RECEIVED BY THE REGISTRANT;

(F) THE TOTAL NUMBER OF AUTHORIZED PLAYERS THAT REQUESTED TO EXCLUDE THEMSELVES FROM CONTESTS;

(G) ANY ADDITIONAL INFORMATION THAT THE COMMISSION DEEMS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTICLE.

2. UPON THE SUBMISSION OF SUCH ANNUAL REPORT, TO SUCH EXTENT THAT THE COMMISSION DEEMS IT TO BE IN THE PUBLIC INTEREST, THE COMMISSION SHALL BE AUTHORIZED TO CONDUCT A FINANCIAL AUDIT OF ANY REGISTRANT, AT ANY TIME, TO ENSURE COMPLIANCE WITH THIS ARTICLE.

3. THE COMMISSION SHALL ANNUALLY PUBLISH A REPORT BASED ON THE AGGREGATE INFORMATION PROVIDED BY ALL REGISTRANTS PURSUANT TO SUBDIVISION ONE OF THIS SECTION, WHICH SHALL BE PUBLISHED ON THE COMMISSION'S WEBSITE NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE DEADLINE FOR THE SUBMISSION OF INDIVIDUAL REPORTS AS SPECIFIED IN SUBDIVISION ONE OF THIS SECTION.

S 1407. STATE TAX. FOR THE PRIVILEGE OF CONDUCTING INTERACTIVE FANTASY SPORTS CONTESTS IN THE STATE, REGISTRANTS SHALL PAY A TAX EQUIVALENT TO FIFTEEN PERCENT OF THEIR INTERACTIVE FANTASY SPORTS GROSS REVENUE GENERATED WITHIN THE STATE.

S 2. Section 104 of the racing, pari-mutuel wagering and breeding law is amended by adding a new subdivision 23 to read as follows:

23. TO REGISTER AND REGULATE INTERACTIVE FANTASY SPORTS IN NEW YORK STATE.

S 3. This act shall take effect immediately.