

STATE OF NEW YORK

10040

IN ASSEMBLY

May 2, 2024

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Racing and Wagering

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

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1401 of the racing, pari-mutuel wagering and breeding
2 law, as added by chapter 237 of the laws of 2016, is amended to read
3 as follows:

4 § 1401. Definitions. As used in this article, the following terms
5 shall have the following meanings:

6 1. [~~"Authorized player" shall mean an individual located in New York
7 state, who is not a prohibited player, that participates in an interac-
8 tive fantasy sports contest offered by a registrant.~~

9 2. [~~"Collegiate sport or athletic event" shall mean a sport or athletic
10 event offered or sponsored by or played in connection with a public or
11 private institution that offers education services beyond the secondary
12 level.~~

13 3.] "Commission" shall mean the New York state gaming commission.

14 [4. ~~"Entry fee" shall mean cash or cash equivalent that is paid by an
15 authorized player to an operator or registrant to participate in an
16 interactive fantasy sports contest offered by such operator or regis-
17 trant.~~

18 5. [~~"High school sport or athletic event" shall mean a sport or athlet-
19 ic event offered or sponsored by or played in connection with a public
20 or private institution that offers education services at the secondary
21 level.~~

22 6. [~~"Highly experienced player" shall mean an authorized player who
23 has:~~

24 (a) ~~entered more than one thousand contests offered by a single opera-
25 tor or registrant; or~~

26 (b) ~~won more than three prizes valued at one thousand dollars each or
27 more from a single operator or registrant.~~

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

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~~7. "Horse racing event" shall mean any sport or athletic event conducted in New York state subject to the provisions of articles two, three, four, five, six, nine, ten and eleven 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.] 2.~~ "Interactive fantasy sports contest" or "contest" shall mean a game of skill wherein one or more contestants compete against each other, including contests wherein participants select whether athletes, in the case of sporting events, shall accumulate more or less than a target score set by an operator, by using [~~their~~] such participant's knowledge and understanding of athletic events and athletes to select and manage rosters of simulated players whose performance directly corresponds with the actual performance of human competitors on sports teams and in sports events.

~~[9. "Interactive fantasy sports gross revenue" shall mean the amount equal to the total of all entry fees not attributable to New York state prohibited sports events that a registrant collects from all players, less the total of all sums not attributable to New York state prohibited sports events 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.~~

~~10.] 3.~~ "Target score" shall mean a numerical figure established by an operator that is derived from a single athlete's accumulated statistics, multiple statistics or a fantasy score, and for which a contestant chooses whether an identified instance or statistical achievement shall or shall not occur, shall be achieved, or shall be surpassed. Use of a target score shall be an interactive fantasy sports contest that does not render such a contest as sports wagering, as such term is defined in paragraph (x) of subdivision one of section thirteen hundred sixty-seven of this chapter, provided the scoring criteria is offered by a registrant as part of a peer-to-peer interactive fantasy sports contest.

4. (a) "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.] (b)~~ An operator shall not be considered an interactive fantasy sports contest contestant by virtue of doing any of the following:

(i) setting house rules for a contest;

(ii) assigning a salary or target score to any eligible athlete or player;

(iii) accepting an entry fee from a fantasy contest participant; or

(iv) awarding or disbursing prizes.

5. "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.] 6.~~ "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.] 7.~~ "Authorized player" or "contestant" shall mean an individual located in the state of New York, who is not a prohibited player, that

1 participates in an interactive fantasy sports contest offered by a
2 registrant and is at least twenty-one years of age.

3 8. "Entry fee" shall mean cash or cash equivalent that is paid by an
4 authorized player to an operator or registrant to participate in an
5 interactive fantasy sports contest offered by such operator or regis-
6 trant.

7 9. "Highly experienced player" shall mean an authorized player who
8 has:

9 (a) entered more than one thousand contests offered by a single opera-
10 tor or registrant; or

11 (b) won more than three prizes valued at one thousand dollars each or
12 more from a single operator or registrant.

13 10. "Prohibited player" shall mean:

14 (a) any member, officer, employee or agent of an operator or regis-
15 trant;

16 (b) any spouse, child, brother, sister or parent residing as a member
17 of the same household in the principal place of abode of any member,
18 officer, employee or agent of an operator or registrant;

19 (c) any individual with access to non-public confidential information
20 about contests;

21 (d) any amateur or professional athlete whose performance may be used
22 to determine the outcome of a contest;

23 (e) any sports agent, team employee, referee, or league official asso-
24 ciated with any sport or athletic event on which contests are based;

25 (f) any individual located in a state where the conduct of contests is
26 expressly prohibited; or

27 (g) any minor.

28 ~~[15.]~~ 11. "Minor" shall mean any person under the age of twenty-one
29 years.

30 12. "Prohibited sports event" shall mean any collegiate sport or
31 athletic event, any high school sport or athletic event or any horse
32 racing event.

33 ~~[16.]~~ 13. "Resident percentage" shall mean, for each interactive
34 fantasy sports contest, the percentage, rounded to the nearest tenth of
35 a percent, of the total entry fees collected from players located in New
36 York state, divided by the total entry fees collected from all players
37 in interactive fantasy sports contests not prohibited in New York state.

38 ~~[17. "Sports event" shall mean any amateur or professional sport or~~
39 ~~athletic event, except a prohibited sports event.]~~

40 14. "Interactive fantasy sports gross revenue" shall mean the amount
41 equal to the total of all entry fees not attributable to New York state
42 prohibited sports events that a registrant collects from all players,
43 less the total of all sums not attributable to New York state prohibited
44 sports events paid out as winnings to all players, multiplied by the
45 resident percentage for New York state; provided, however, that the
46 total of all sums paid out as winnings to players shall not include the
47 cash equivalent value of any merchandise or item of value awarded as a
48 prize.

49 § 2. Section 1402 of the racing, pari-mutuel wagering and breeding
50 law, as added by chapter 237 of the laws of 2016, is amended to read as
51 follows:

52 § 1402. Registration. 1. ~~(a)~~ No operator shall administer, manage,
53 or otherwise make available an interactive fantasy sports platform to
54 persons located in New York state unless registered with the commission
55 pursuant to section fourteen hundred three of this article. A registrant
56 may use multiple interactive fantasy sports platforms and offer multiple

1 types of contests, provided that each platform and each type of contest
2 has been reviewed and approved by the commission. This article, and any
3 and all rules and regulations adopted under the authority of this arti-
4 cle, shall apply only to interactive fantasy sports contests for which
5 an authorized player pays an entry fee.

6 ~~[(b) Any operator that was offering contests to persons located in New
7 York state prior to the tenth of November, two thousand fifteen, may
8 continue to offer contests to persons located in New York state until
9 such operator's application for registration has been approved or denied
10 in accordance with section fourteen hundred three of this article,
11 provided that such operator receives a temporary permit pursuant to
12 subdivision two of this section and files an application for registra-
13 tion with the commission within ninety days of the promulgation of regu-
14 lations to effectuate this article.]~~

15 2. ~~[The commission shall provide a temporary permit to each operator
16 that was offering contests pursuant to paragraph (b) of subdivision one
17 of this section to allow such operator to continue to offer such
18 contests, on a provisional basis, until such operator's application for
19 registration has been approved or denied in accordance with section
20 fourteen hundred three of this article, provided that such operator
21 meets all the requirements in section fourteen hundred four of this
22 article.]~~

23 ~~3.]~~ Registrations issued by the commission shall remain in effect for
24 ~~[three]~~ five years. The commission shall establish a process for
25 renewal. The renewal fee for all interactive fantasy sports registrants
26 shall be one percent of interactive fantasy sports gross revenues for
27 the preceding period of registration.

28 3. The initial registration fee for an interactive fantasy sports
29 operator shall be five million dollars.

30 4. Interactive fantasy sports contests offered by a registrant in
31 accordance with the provisions of this article shall not constitute
32 gambling as defined in article two hundred twenty-five of the penal law.

33 5. The commission shall publish a list of all operators registered in
34 New York state pursuant to this section on the commission's website for
35 public use.

36 ~~[6. The commission shall promulgate regulations to implement the
37 provisions of this article, including the development of the initial
38 form of the application for registration. Such regulations shall provide
39 for the registration and operation of contests in New York state and
40 shall include, but not be limited to, responsible protections with
41 regard to compulsive play and safeguards for fair play.]~~

42 § 3. The opening paragraph of subdivision 4 of section 1403 of the
43 racing, pari-mutuel wagering and breeding law, as added by chapter 237
44 of the laws of 2016, is amended to read as follows:

45 Upon receipt of criminal history information pursuant to subdivision
46 three of this section, the commission shall make a determination to
47 approve or deny an application for registration; provided, however, that
48 before making a determination on such application, the commission shall
49 provide the subject of the record with a copy of such criminal history
50 information and a copy of article twenty-three-A of the correction law
51 and inform such prospective applicant seeking to be credentialed of his
52 or her right to seek correction of any incorrect information contained
53 in such criminal history information pursuant to the regulations and
54 procedures established by the division of criminal justice services. The
55 commission ~~[shall]~~ may deny any application for registration, or
56 suspend, refuse to renew, or revoke any existing registration issued

1 pursuant to this article, upon the finding that the operator or regis-
2 trant, or any partner, officer, director, or shareholder:

3 § 4. Paragraphs (o) and (q) of subdivision 1 of section 1404 of the
4 racing, pari-mutuel wagering and breeding law, as added by chapter 237
5 of the laws of 2016, are amended to read as follows:

6 (o) ensure all winning outcomes reflect the relative knowledge and
7 skill of the authorized [~~players~~] contestants and shall be determined
8 predominantly by one or more accumulated statistical results of the
9 performance of individuals in sports events;

10 (q) ensure no winning outcome shall be based solely on [~~any~~] a single
11 performance of an individual athlete in a single sport or athletic
12 event; and

13 § 5. Section 1405 of the racing, pari-mutuel wagering and breeding law
14 is amended by adding four new subdivisions 3, 4, 5 and 6 to read as
15 follows:

16 3. The provisions of this chapter shall be construed liberally to
17 promote the general welfare of the public and integrity of the fantasy
18 sports industry. However, the commission may not adopt rules limiting or
19 regulating the rules or administration of an individual interactive
20 fantasy contest, the statistical makeup of a fantasy contest, or the
21 digital platform of a fantasy contest operator. Further, the commission
22 may not in any way limit or restrict the types of fantasy contests
23 allowed pursuant to this article, by labeling any such contests as
24 sports wagering as such term is defined in paragraph (x) of subdivision
25 one of section thirteen hundred sixty-seven of this chapter.

26 4. The commission shall verify that operators deploy identity and
27 geolocation verification procedures, which may require the use of a
28 reputable, independent third-party that is in the business of verifying
29 an individual's personally identifiable information and can detect
30 potential prohibited participants.

31 5. The commission shall verify that operators employ mechanisms on
32 such operator's platform that are designed to detect and prevent unau-
33 thorized accounts, and to detect and prevent fraud, money laundering,
34 and collusion.

35 6. Within one hundred twenty days of the effective date of this subdi-
36 vision, the commission shall review and revise its current fantasy
37 sports rules and regulations, as set forth in 9 NYCRR §§ 5600-5613.4,
38 and promulgate any needed new rules in order to effectuate and enforce
39 all provisions of this article.

40 § 6. The opening paragraph of subdivision 1 of section 1406 of the
41 racing, pari-mutuel wagering and breeding law, as added by chapter 237
42 of the laws of 2016, is amended to read as follows:

43 Each [~~registrant~~] operator shall annually submit a report to the
44 commission no later than the thirtieth of June of each year, which shall
45 include the following information as it shall apply to accounts held by
46 authorized players located in New York state:

47 § 7. Section 1408 of the racing, pari-mutuel wagering and breeding
48 law, as added by chapter 237 of the laws of 2016, is amended to read as
49 follows:

50 § 1408. Additional regulatory costs. The commission may assess annual-
51 ly, in arrears, on each [~~registrant~~] operator proportional to the inter-
52 active fantasy sports gross revenue of such registrant in the preceding
53 year compared to the aggregate interactive fantasy sports gross revenue
54 of all registrants in the preceding year actual costs necessary to regu-
55 late in accordance with the provisions of this article. Such assessments
56 shall be made only within amounts appropriated therefor.

1 § 8. This act shall take effect immediately.