

STATE OF NEW YORK

10040--A

IN ASSEMBLY

May 2, 2024

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Racing and Wagering -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

§ 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 each or more from a single operator or registrant.~~

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~~

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

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~~1 sport or athletic event conducted outside of New York state, which if~~
~~2 conducted in New York state would be subject to the provisions of this~~
~~3 chapter.~~

4 ~~8.]~~ 2. "Interactive fantasy sports contest" or "contest" shall mean a
5 game of skill wherein [one] two or more contestants compete against each
6 other, including contests wherein participants select whether athletes,
7 in the case of sporting events, shall accumulate more or less than a
8 target score set by an operator, by using [their] such participant's
9 knowledge and understanding of athletic events and athletes to select
10 and manage rosters of simulated players whose performance directly
11 corresponds with the actual performance of human competitors on sports
12 teams and in sports events.

13 ~~[9. "Interactive fantasy sports gross revenue" shall mean the amount~~
14 ~~equal to the total of all entry fees not attributable to New York state~~
15 ~~prohibited sports events that a registrant collects from all players,~~
16 ~~less the total of all sums not attributable to New York state prohibited~~
17 ~~sports events paid out as winnings to all players, multiplied by the~~
18 ~~resident percentage for New York state; provided, however, that the~~
19 ~~total of all sums paid out as winnings to players shall not include the~~
20 ~~cash equivalent value of any merchandise or thing of value awarded as a~~
21 ~~prize.~~

22 10.] 3. "Target score" shall mean a numerical figure established by an
23 operator that is derived from a single athlete's accumulated statistics,
24 multiple statistics or a fantasy score, and for which a contestant
25 chooses whether an identified instance or statistical achievement shall
26 or shall not occur, shall be achieved, or shall be surpassed. Use of a
27 target score shall be an interactive fantasy sports contest that does
28 not render such a contest as sports wagering, as such term is defined in
29 paragraph (x) of subdivision one of section thirteen hundred sixty-seven
30 of this chapter, provided the scoring criteria is offered by a regis-
31 trant as part of a peer-to-peer interactive fantasy sports contest.

32 4. (a) "Interactive fantasy sports operator" or "operator" shall mean
33 any person or entity that offers any interactive fantasy sports contest
34 to any authorized player through any interactive fantasy sports plat-
35 form.

36 ~~[11.]~~ (b) An operator shall not be considered an interactive fantasy
37 sports contest contestant by virtue of doing any of the following:

- 38 (i) setting house rules for a contest;
39 (ii) assigning a salary or target score to any eligible athlete or
40 player;
41 (iii) accepting an entry fee from a fantasy contest participant; or
42 (iv) awarding or disbursing prizes.

43 5. "Interactive fantasy sports platform" or "platform" shall mean the
44 combination of hardware, software, and data networks used to manage,
45 administer, or control contests and any associated entry fees.

46 ~~[12.]~~ 6. "Interactive fantasy sports registrant" or "registrant" shall
47 mean an operator that is registered by the commission. A registrant may
48 utilize multiple interactive fantasy sports platforms and offer multiple
49 contests, provided that each platform and each contest has been reviewed
50 and approved by the commission.

51 ~~[13. "Minor" shall mean any person under the age of eighteen years.~~

52 ~~14.]~~ 7. "Authorized player" or "contestant" shall mean an individual
53 located in the state of New York, who is not a prohibited player, that
54 participates in an interactive fantasy sports contest offered by a
55 registrant and is at least twenty-one years of age.

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

5 9. "Highly experienced player" shall mean an authorized player who
6 has:

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

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

11 10. "Prohibited player" shall mean:

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

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

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

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

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

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

25 (g) any minor.

26 ~~[15-]~~ 11. "Minor" shall mean any person under the age of twenty-one
27 years.

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

31 ~~[16-]~~ 13. "Resident percentage" shall mean, for each interactive
32 fantasy sports contest, the percentage, rounded to the nearest tenth of
33 a percent, of the total entry fees collected from players located in New
34 York state, divided by the total entry fees collected from all players
35 in interactive fantasy sports contests not prohibited in New York state.

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

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

47 § 2. Section 1402 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 § 1402. Registration. 1. ~~(a)~~ No operator shall administer, manage,
51 or otherwise make available an interactive fantasy sports platform to
52 persons located in New York state unless registered with the commission
53 pursuant to section fourteen hundred three of this article. A registrant
54 may use multiple interactive fantasy sports platforms and offer multiple
55 types of contests, provided that each platform and each type of contest
56 has been reviewed and approved by the commission. This article, and any

1 and all rules and regulations adopted under the authority of this arti-
2 cle, shall apply only to interactive fantasy sports contests for which
3 an authorized player pays an entry fee.

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

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

21 ~~3-]~~ Registrations issued by the commission shall remain in effect for
22 ~~[three]~~ five years. The commission shall establish a process for
23 renewal. The renewal fee for all interactive fantasy sports registrants
24 shall be one percent of interactive fantasy sports gross revenues for
25 the preceding period of registration.

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

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

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

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

40 § 3. The opening paragraph of subdivision 4 of section 1403 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 Upon receipt of criminal history information pursuant to subdivision
44 three of this section, the commission shall make a determination to
45 approve or deny an application for registration; provided, however, that
46 before making a determination on such application, the commission shall
47 provide the subject of the record with a copy of such criminal history
48 information and a copy of article twenty-three-A of the correction law
49 and inform such prospective applicant seeking to be credentialed of his
50 or her right to seek correction of any incorrect information contained
51 in such criminal history information pursuant to the regulations and
52 procedures established by the division of criminal justice services. The
53 commission ~~[shall]~~ may deny any application for registration, or
54 suspend, refuse to renew, or revoke any existing registration issued
55 pursuant to this article, upon the finding that the operator or regis-
56 trant, or any partner, officer, director, or shareholder:

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

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

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

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

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

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

5. The commission shall verify that operators employ mechanisms on such operator's platform that are designed to detect and prevent unauthorized accounts, and to detect and prevent fraud, money laundering, and collusion.

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

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

Each ~~registrant~~ operator 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:

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

§ 1408. Additional regulatory costs. The commission may assess annually, in arrears, on each ~~registrant~~ operator proportional to the interactive fantasy sports gross revenue of such registrant in the preceding year compared to the aggregate interactive fantasy sports gross revenue of all registrants in the preceding year actual costs necessary to regulate in accordance with the provisions of this article. Such assessments shall be made only within amounts appropriated therefor.

§ 8. This act shall take effect immediately.