STATE OF NEW YORK

9044

IN SENATE

April 11, 2024

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming 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:

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

8. "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.

9. "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.

10. "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.~~] **11. "Minor" shall mean any person under the age of twenty-one years.**

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

[~~16.~~] **13.** "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 interactive fantasy sports contests not prohibited in New York state.

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

14. "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 item of value awarded as a prize.

§ 2. Section 1402 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:

§ 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 use 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 apply only to interactive fantasy sports contests for which an authorized player pays an entry fee.

[~~(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 receives a temporary permit pursuant to subdivision two of this section and 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 meets all the requirements in section fourteen hundred four of this article.~~

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

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

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

5. 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.

[~~6. 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.~~]

§ 3. The opening paragraph of subdivision 4 of section 1403 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:

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~~] **may** 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:

§ 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.