

Emergency Rules

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 45—Missouri Gaming Commission Chapter 40—Fantasy Sports Contests

EMERGENCY RULE

11 CSR 45-40.030 Commission Approval of Procedures

PURPOSE: This rule establishes the process for approval of fantasy sports contest operators' procedures.

EMERGENCY STATEMENT: This emergency rule is necessary to address statutory sections enacted in HB 1941 (2016), specifically, sections 313.900, 313.910, 313.920, 313.930, 313.940, 313.950, 313.960, 313.970, 313.990, 313.1000, 313.1010, and 313.1020, which became law on August 28, 2016. This legislation requires the Missouri Gaming Commission (MGC) to regulate and license the management, operation, and conduct of fantasy sports contests and participants.

This bill created the Missouri Fantasy Sports Consumer Protection Act and requires the operators of websites engaged in fantasy sports contests in Missouri to apply for and receive annual licenses from the Missouri Gaming Commission (MGC) prior to operation. It includes a provision for "grandfathering in" fantasy sports contest operators already operating in Missouri prior to April 1, 2016, by allowing them to continue operating until they receive or are denied a license. We estimate this will affect seven (7) operators who will be charged an annual operation fee for net revenue received. This is estimated to generate six hundred thousand dollars (\$600,000) per year for the Gaming Proceeds for Education Fund. Those operators must submit an application for licensure prior to October 1, 2016. Once licensed, HB 1941 requires operators to segregate players' funds, maintain a reserve account for the benefit and protection of those funds, establish procedures that will prevent unauthorized withdrawals or commingling of the player and operator funds, as well as provide procedures for a player to report a compromised account. The bill also requires licensed operators to contract with a Certified Public Accountant to conduct an annual financial and internet website audit to ensure compliance with the law. The licensed operators will also have to pay an annual operation fee. Licensed operators may not issue credit to players and may not allow multiple accounts for one (1) player. It requires licensed operators to comply with certain requirements relative to the contests they offer, including requiring that all winning outcomes be determined by accumulating statistical results of fully completed events, forbidding players to select athletes through an auto-draft process, forbidding the licensed operator from awarding any prize to the winner of or athletes in the underlying competition, and not allowing the contest to be based on collegiate, high school, or youth athletics or performances. Licensed operators must also verify each player's age and state of residence as well as maintain and provide access to online self-exclusion forms and processes. The bill also sets parameters for the disclosure of information and documents.

HB 1941 grants the MGC the authority to oversee all licensed operators and provides the MGC investigatory, licensing, and rule-making powers. The submitted regulations were drafted to provide procedures for licensing fantasy sports contest operators to comply with the statute that became effective August 28, 2016. The rules also provide a consistent regulatory framework from which all of the fantasy sports contest operators can operate. We met with two (2) large operators and two small operators prior to drafting these rules and we solicited comments from three (3) of those companies. We received comments from all three (3) operators and made changes as appropriate and consistent with our statutory duties. Players will benefit from consistent standards as well, in that they can be secure in knowing that all licensed fantasy sports contest operators accepting

wagers from Missouri residents comply with and operate within the same framework; these regulations will provide a level playing field for all parties involved.

Specifically, this emergency rule provides regulatory procedures for fantasy sports contest operators to follow regarding submission and approval of their procedures, in accordance with the statutory requirements.

As such, the MGC finds an immediate threat to the public welfare and a compelling governmental interest to regulate Fantasy Sports Contests which requires this emergency action. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri Gaming Commission believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 29, 2016, becomes effective September 8, 2016, and expires March 6, 2017.

(1) Prior to operating in Missouri, each applicant for a Fantasy Sports Contest Operator (FSCO) License shall submit procedures to the commission that—

(A) Prevent unauthorized withdrawals from a registered player's account by the licensed operator or others;

(B) Make clear that funds in a registered player's account are not the property of the licensed operator and are not available to the licensed operator's creditors;

(C) Segregate player funds from operational funds;

(D) Maintain a reserve in the form of cash or cash equivalents in the amount of the deposits made to the accounts of fantasy sports contest players for the benefit and protection of the funds held in such accounts;

(E) Ensure any prize won by a registered player from participating in a fantasy sports contest is deposited into the registered player's account within forty-eight (48) hours of winning the prize;

(F) Ensure registered players can withdraw the funds maintained in their individual accounts, whether such accounts are open or closed, within five (5) business days of the request being made, unless the licensed operator believes in good faith that the registered player engaged in either fraudulent conduct or other conduct that would put the licensed operator in violation of sections 313.900 to 313.1020, RSMo, in which case the licensed operator may decline to honor the request for withdrawal for a reasonable investigatory period until its investigation is resolved if it provides notice of the nature of the investigation to the registered player. For the purposes of this provision, a request for withdrawal will be considered honored if it is processed by the licensed operator but delayed by a payment processor, credit card issuer, or by the custodian of a financial account;

(G) Allow a registered player to permanently close their account at any time for any reason; and

(H) Offer registered players access to their play history and account details.

(2) Each applicant shall submit the written description of its procedures and all supporting documents designed to satisfy the requirements of section (1) of this rule to the commission with the initial application, unless otherwise directed by the commission.

(3) The commission shall review each submission required by section (2) of this rule and Chapter 313, RSMo and shall determine whether it conforms to the requirements of section (1) of this rule and whether the procedures submitted satisfy the requirements. If the commission finds any insufficiencies, they shall be specified in writing to the licensee, who shall make appropriate alterations. No FSCO license shall be issued unless and until the procedures are approved by the commission.

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(4) Once approved, no licensed operator shall alter its procedures unless and until the change is approved by the commission.

(5) Each licensed operator shall submit to the commission any change to the approved procedures no less than fifteen (15) days prior to the planned implementation date of the change. The proposed change to the procedures shall be approved or disapproved by the commission. Upon approval, the change may be implemented. If the change is disapproved, the licensed operator shall not implement the change.

(6) If at any time the commission determines that a licensed operator's procedures are inadequate or do not comply with the requirements of this chapter or Chapter 313, RSMo, the commission shall notify the licensed operator in writing. Within fifteen (15) days after receiving the notification, the licensed operator shall amend its procedures accordingly and shall submit a copy of the procedures, as amended, and a description of any other remedial measures taken.

(7) If a licensed operator plans to disseminate the List of Disassociated Persons (DAP List), the operator shall submit to the commission a plan for the dissemination of the information regarding persons placed on the DAP List, as well as persons who have been removed from the DAP List. The plan shall be designed to safeguard, as best as is reasonably possible, the confidentiality of the information but shall include dissemination to at least the personnel responsible for removing a person on the DAP List from all individually targeted advertising or marketing. Licensed operators may not disclose the name of, or any information about, a person who has been placed on or removed from the DAP List to anyone other than employees and agents of the licensed operator whose duties and functions require access to the information. The plan must be approved by the commission prior to disseminating the information. All information disclosed to any licensed operator regarding anyone placed on or removed from the DAP List shall be deemed a closed record; however, the information may be disclosed as authorized by the individual seeking placement on the DAP List, by law, and through the provisions contained in 11 CSR 45-17.

*AUTHORITY: sections 313.930, 313.940, 313.1010, and 313.1020, HB 1941, Second Regular Session, Ninety-eighth General Assembly, 2016. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expires March 6, 2017. An emergency rule and a proposed rule covering this same material will be published in the October 3, 2016, issue of the **Missouri Register**.*