

SENATE BILL No. 462

June 14, 2017, Introduced by Senators HERTEL, SCHMIDT, KNEZEK, KOWALL and BRANDENBURG and referred to the Committee on Regulatory Reform.

A bill to regulate the conduct of fantasy sports games; to protect Michigan participants in fantasy sports games; to require licensing of the operators of fantasy sports games; to impose fees on the operators of fantasy sports games; to provide for the powers and duties of certain state governmental officers and entities; to prohibit violations of this act; and to prescribe civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "fantasy sports games consumer protection act".

3 Sec. 2. As used in this act:

4 (a) "Department" means the department of licensing and
5 regulatory affairs.

6 (b) "Entry fee" means an amount that a game participant pays

1 to a game operator to compete in a fantasy sports game.

2 (c) "Fantasy sports game" means a fantasy or simulation sports
3 game or contest with an entry fee that meets all of the following
4 conditions:

5 (i) The value of all prizes and awards offered to winning game
6 participants is established and made known to the game participants
7 in advance of the game.

8 (ii) All winning outcomes reflect the relative knowledge and
9 skill of game participants and are determined predominantly by
10 accumulated statistical results of the performance of individuals,
11 including athletes.

12 (iii) A winning outcome is not based on the score, point
13 spread, or performance of a single team or combination of teams or
14 on any single performance of an individual athlete or player in a
15 single event.

16 (d) "Game operator" means a person that offers a software
17 platform for the playing of a fantasy sports game, administers 1 or
18 more fantasy sports games with an entry fee, and awards a prize of
19 value.

20 (e) "Game participant" means an individual who participates in
21 a fantasy sports game offered by a game operator.

22 (f) "Licensed game operator" means a game operator that is
23 licensed by the department under this act.

24 (g) "Person" means an individual, partnership, corporation,
25 association, or other legal entity other than a governmental
26 entity. Person includes a sovereign tribal government and its
27 business entities.

1 (h) "Protected information" means information related to the
2 playing of paid fantasy sports games by game participants that is
3 obtained solely as a result of an individual's employment with or
4 work as an agent for a game operator.

5 Sec. 3. (1) Fantasy sports games are authorized if they are
6 conducted in accordance with this act by a licensed game operator,
7 or if they are conducted by a game operator under subsection (3).

8 (2) Any other law that is inconsistent with this act does not
9 apply to fantasy sports games conducted by a licensed game operator
10 in accordance with this act or by a game operator under subsection
11 (3).

12 (3) A game operator that is conducting fantasy sports games in
13 this state on May 1, 2016 may continue operating fantasy sports
14 games until the game operator is issued or denied a license under
15 section 4.

16 Sec. 4. (1) A person shall not offer fantasy sports games in
17 this state unless the person is a licensed game operator.

18 (2) A person seeking to be a licensed game operator shall
19 submit an application, with the applicable fee under subsection
20 (4), to the department. The applicant shall provide sufficient
21 documentation to the department to assure that the applicant meets
22 the requirements for licensure, including, but not limited to,
23 documentation of all of the following:

24 (a) The name of the applicant.

25 (b) The location of the applicant's principal place of
26 business.

27 (c) The name and address of each person that holds a 15% or

1 greater ownership interest in the applicant or in shares of the
2 applicant.

3 (d) The applicant's criminal record, if any, or, if the
4 applicant is a business entity, any criminal record of an
5 individual who is a director or officer of or who has a 15% or
6 greater ownership interest in the applicant.

7 (e) Any ownership interest that a director, officer, policy-
8 making manager, or principal stockholder of the applicant holds in
9 a person that is or was a licensed fantasy sports operator or
10 similar entity.

11 (f) A description of any physical facility operated by the
12 applicant in this state, the employees who work at the facility,
13 and the nature of the business conducted at the facility.

14 (g) Information sufficient to show, as determined by the
15 department, that the applicant can meet the requirements of
16 procedures submitted by the applicant under section 5.

17 (3) A license issued under this section is valid for 1 year.
18 The department shall renew a license each year if the applicant
19 demonstrates continued eligibility for licensure under subsection
20 (2).

21 (4) The initial license fee is \$5,000.00. The annual license
22 renewal fee is \$1,000.00. However, an initial license fee or annual
23 license renewal fee must not exceed 10% of the total amount of
24 entry fees collected by the applicant from the operation of fantasy
25 sports games in this state less the total amount of cash and value
26 of cash equivalents paid as prizes or awards to game participants.

27 Sec. 5. (1) A licensed game operator that offers paid fantasy

1 sports games in this state shall submit to the department
2 procedures that are intended to do all of the following:

3 (a) Prevent the game operator, its owners, directors,
4 officers, and employees, and any relative of any of these
5 individuals living in the same household, from competing in a
6 fantasy sports game.

7 (b) Prevent the employees or agents of the game operator from
8 sharing protected information that could affect fantasy sports game
9 play with third parties until the information is made publicly
10 available.

11 (c) Prevent participants and officials in a real-world
12 sporting event that has any effect on the outcome of a fantasy
13 sports game from participating in the fantasy sports game.

14 (d) Disclose the number of fantasy sports games a single game
15 participant may enter and take reasonable steps to prevent game
16 participants from entering more than the allowable number of
17 fantasy sports games.

18 (e) Either of the following:

19 (i) Segregate game participants' money from operational money.

20 (ii) Maintain a reserve in the form of cash, cash equivalents,
21 security deposits held by banks and processors, an irrevocable
22 letter of credit, a bond, or a combination of these in the total
23 amount of deposits in game participants' accounts for the benefit
24 and protection of authorized game participants' money held in
25 fantasy sports game accounts.

26 (2) A person shall not violate a procedure that is submitted
27 to the department under subsection (1) and approved by the

1 department.

2 (3) Procedures submitted to the department under subsection
3 (1) are confidential and privileged, are not subject to disclosure
4 under the freedom of information act, 1976 PA 442, MCL 15.231 to
5 15.246, are not subject to subpoena, and are not subject to
6 discovery or admissible in evidence in a private civil action.

7 Sec. 6. By July 1 of each year, a licensed game operator shall
8 submit to the department an audit of the financial condition of the
9 licensed game operator's total operations for the previous calendar
10 year. An audit under this section must be conducted by a certified
11 public accountant in accordance with generally accepted auditing
12 standards. An audit submitted to the department under this section
13 is confidential and privileged, is not subject to disclosure under
14 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,
15 is not subject to subpoena, and is not subject to discovery or
16 admissible in evidence in a private civil action.

17 Sec. 7. A game operator shall undertake commercially
18 reasonable procedures intended to ensure that an individual under
19 18 years of age does not participate in a fantasy sports game.

20 Sec. 8. A licensed game operator shall not conduct, operate,
21 or offer a fantasy sports game that is based on a university,
22 college, high school, or youth sporting event.

23 Sec. 9. (1) A licensed game operator shall make available on
24 the operator's website information about resources relating to
25 compulsive behavior including a telephone number or link to
26 information on compulsive behavior and where to seek assistance for
27 compulsive behavior.

1 (2) A licensed game operator shall make available, by website,
2 telephone, or online chat, a means to allow an individual to
3 irrevocably restrict the individual's ability to enter a fantasy
4 sports game and to select the length of time the restriction will
5 be in effect.

6 (3) A licensed game operator shall offer a game participant
7 access to the game participant's playing history, including a
8 summary of entry fees expended, games played, previous lineups, and
9 prizes awarded.

10 Sec. 10. The department shall promulgate rules to implement
11 this act under the administrative procedures act of 1969, 1969 PA
12 306, MCL 24.201 to 24.328.

13 Sec. 11. (1) The department may suspend, revoke, or restrict
14 the license of a game operator that violates this act, a rule
15 promulgated under this act, or an order of the department.

16 (2) The department may impose a civil fine of not more than
17 \$1,000.00 for a violation of this act, a rule promulgated under
18 this act, or an order of the department.

19 (3) A fine imposed under this section is payable to this state
20 and may be recovered in a civil action brought by the department.

21 Enacting section 1. This act takes effect 90 days after the
22 date it is enacted into law.

23 Enacting section 2. This act does not take effect unless
24 or House Bill No. 4742 of
25 the 99th Legislature is enacted into law.