

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 279

Short Title: Fantasy Sports Regulation. (Public)

Sponsors: Representatives Saine, Hardister, Hanes, and Duane Hall (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Regulatory Reform, if favorable, Finance

March 9, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE REGISTRATION OF FANTASY SPORTS CONTEST OPERATORS
3 WITH THE DEPARTMENT OF THE SECRETARY OF STATE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. The General Statutes are amended by adding a new Chapter to read:

6 "Chapter 78E.

7 "Fantasy Sports Contests.

8 "§ 78E-1. Title.

9 This Chapter shall be known and may be cited as the "Fantasy Sports Contests Act."

10 "§ 78E-2. Definitions.

11 In this Chapter, unless the context otherwise requires, the following definitions shall apply:

- 12 (1) Department. – The Department of the Secretary of State.
- 13 (2) Entry fee. – Cash or cash equivalent that is required to be paid by a participant
14 to an operator in order to participate in a fantasy contest.
- 15 (3) Fantasy contest. – An online fantasy or simulated game or contest in which an
16 entry fee is charged and all of the following conditions apply:
17 a. The value of all prizes and awards offered to winning participants is
18 established and made known to the participants in advance of a contest
19 that is open to the general public.
20 b. All winning outcomes reflect the relative knowledge and skill of the
21 participants and shall be determined by accumulated statistical results of
22 the performance of individuals, including athletes in the case of sports
23 events.
24 c. No winning outcome is based on the score, point spread, or any
25 performance of any single actual team or combination of teams or solely
26 on any single performance of an individual athlete or player in any
27 single actual event.
- 28 (4) Location percentage. – The percentage for the operator, rounded to the nearest
29 tenth of a percent (1/10 of 1%), of the total amount of entry fees collected from
30 players located in this State, divided by the total entry fees collected by the
31 operator from all players.
- 32 (5) Net revenue. – The amount equal to the total of all entry fees that an operator
33 collects from all players, less the total of all sums paid out as winnings to all
34 players, multiplied by the location percentage. The term includes the value of
35 any promotional tickets and credits.



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- 1 (6) Operator. – A person or entity that offers fantasy contests to members of the
2 public. The term does not include an Internet service provider or a provider of
3 mobile data services merely as a result of that entity's transporting general
4 traffic that may include a fantasy contest.
- 5 (7) Player. – A person who participates in a fantasy contest offered by an operator.
- 6 (8) Principal stockholder. – Any person who individually, or in concert with the
7 person's spouse and immediate family members, (i) beneficially owns or
8 controls, directly or indirectly, at least fifteen percent (15%) of the equity
9 ownership of an operator or (ii) has the power to vote or cause the vote of at
10 least fifteen percent (15%) of an operator.

11 **"§ 78E-3. Application for registration; expiration and renewal.**

12 (a) No fantasy contest shall be offered in this State unless the operator has been registered
13 with the Department.

14 (b) An applicant for registration shall be registered by the Department if the applicant
15 meets all of the following requirements:

- 16 (1) Submission of an application, on a form to be prescribed by the Department,
17 that contains all of the following information:
- 18 a. The name and principal address of the applicant.
- 19 b. The address of any offices of the applicant in this State and its registered
20 agent within this State. If the applicant does not maintain an office in
21 this State, the name and address of the person having custody of its
22 financial records.
- 23 c. The location and date the applicant was legally established and the form
24 of its organization.
- 25 d. The names and addresses of the officers, directors, trustees, and
26 principal salaried executive staff officer.
- 27 e. The name and address of each principal stockholder of the applicant, if
28 any.
- 29 f. Any information the Department deems necessary to ensure compliance
30 with the provisions of this Chapter.
- 31 (2) Submission of evidence satisfactory to the Department that the operator has
32 established commercially reasonable procedures for fantasy contests that are
33 intended to do the following:
- 34 a. Prevent the operator and its employees and their immediate family
35 members living in the same household from competing in any public
36 fantasy contest offered by the operator in which a cash prize is offered.
- 37 b. Prevent the sharing of information by fantasy contest players that has
38 the potential to affect fantasy that is obtained as a result of or by virtue
39 of a person's employment and that is not publicly available.
- 40 c. Verify that a player is at least 18 years of age.
- 41 d. Ensure that players participating in a fantasy contest are restricted from
42 entering any fantasy contest where the outcome is determined, in whole
43 or part, on the accumulated statistical results of a team of individuals in
44 which such players are participants.
- 45 e. Allow individuals, upon request, to restrict themselves from entering a
46 fantasy contest and take reasonable steps to prevent those individuals
47 from entering the operator's fantasy contests.
- 48 f. Disclose the maximum number of entries a single fantasy contest player
49 may submit to each fantasy contest and take reasonable steps to prevent
50 any player from submitting more than the maximum allowable number.

1 g. Segregate player funds from operational funds in separate accounts and
2 maintain a reserve in the form of cash, cash equivalents, irrevocable
3 letter of credit, bond, credit card and payment processor accounts and
4 receivables, or a combination thereof, in an amount sufficient to pay all
5 prizes and awards offered to winning participants.

6 h. Prevent fantasy contests based on the performances of participants in
7 collegiate, high school, or youth athletic competitions.

8 (3) Submission of an initial registration fee equal to ten percent (10%) of the
9 operator's gross fantasy contest revenues from the previous calendar year;
10 provided, however, that the fee shall not be less than two thousand five hundred
11 dollars (\$2,500) or more than ten thousand dollars (\$10,000).

12 (c) Registrations issued pursuant to this Chapter shall expire five years after issuance or
13 renewal. The Department shall renew the registration of an operator that submits a completed
14 application in accordance with subsection (b) of this section and a renewal fee equal to the lesser
15 of five thousand dollars (\$5,000) or ten percent (10%) of the operator's net revenue from the
16 previous calendar year.

17 (d) An operator applying for registration who has been in continuous operation in this
18 State for at least 180 days as of the effective date of this act may continue to offer fantasy contests
19 to persons located in the State until 60 days after applications for registration are published by the
20 Department. Operators who have applied for registration during that 60-day period may continue
21 to operate while the registration is pending. Operators who have not registered shall cease
22 operations within this State by the expiration of the 60-day period.

23 (e) An operator applying for registration or renewal of a registration may operate during
24 the application period unless the Department has reasonable cause to believe that the operator is or
25 may be in violation of the provisions of this Chapter and the Department requires the operator to
26 suspend all fantasy contests until registration or renewal of registration is issued or denied.

27 (f) The Department shall issue a registration within 60 days of receipt of the application
28 for registration. If the registration is not issued, the Department shall provide the operator with the
29 justification for not issuing such registration with specificity.

30 **"§ 78E-4. Denial, revocation, or suspension of registration; hearings; civil penalties.**

31 (a) The Department may deny, revoke, or suspend a registration upon determination that
32 an operator, or any officer, partner, principal stockholder, or director of the operator, has done any
33 of the following:

34 (1) Knowingly made a false statement of material fact or has deliberately failed to
35 disclose any information requested.

36 (2) Committed an illegal, corrupt, or fraudulent act, practice, or conduct in
37 connection with any fantasy contest in any jurisdiction, or has been convicted
38 of a felony, a crime of moral turpitude, or any criminal offense involving
39 dishonesty or breach of trust within 10 years prior to the date of application for
40 registration.

41 (3) Knowingly failed to comply with the provisions of this Chapter or of any
42 requirements of the Department.

43 (4) Defaulted in the payment of any obligation or debt due to the State.

44 (5) Fails to be qualified to do business in this State or is not subject to the
45 jurisdiction of the courts of this State.

46 (b) After a hearing with 30 days' notice, the Department may suspend or revoke an
47 operator's registration where a violation of this Chapter has been found by a preponderance of the
48 evidence. In addition, the Department may assess a civil penalty not in excess of one thousand
49 dollars (\$1,000) for any violation of this Chapter demonstrated by a preponderance of the
50 evidence; provided, however, that the penalty shall not exceed ten thousand dollars (\$10,000) for a
51 continuing violation. The clear proceeds of any civil penalty assessed under this section shall be

1 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. After a
2 hearing, the Department may revoke a registration if it finds that facts not known by it at the time
3 it considered the application indicate that such registration should not have been issued. For the
4 purposes of this section, a single act or omission by an operator that affects one or more players
5 shall be treated as a single violation.

6 (c) If the Department determines that a violation of this Chapter has occurred and
7 emergency action is required to protect the public health, safety, and welfare, the Department may
8 suspend any registration for a period of not more than seven business days pending a hearing and
9 final determination. The Department shall notify the operator of the date, time, and place of the
10 hearing at least five business days prior to the hearing.

11 (d) If the Department denies, suspends, or revokes a registration, or assesses a civil penalty
12 in accordance with this Chapter, the Department shall issue written notice to the operator. An
13 operator aggrieved by the Department's action may seek review in accordance with Chapter 150B
14 of the General Statutes.

15 **"§ 78E-5. Reporting and audit requirements.**

16 A registered operator shall do all of the following:

- 17 (1) File an annual report with the Department indicating compliance with this
18 Chapter.
- 19 (2) Conduct an independent financial audit and submit to the Department a copy of
20 the independent financial audit report no less frequently than every two years.
21 The audit shall be consistent with the standards established by the American
22 Institute of Certified Public Accountants and may be part of a national audit
23 conducted by a certified public accountant.
- 24 (3) Notify and update the Department of any material change to the information
25 provided in the application for registration under G.S. 78E-4.
- 26 (4) Notify the Department if the operator ceases to offer fantasy contests in this
27 State.

28 **"§ 78E-6. Change of ownership or acquisition of interest in operator.**

29 If any person acquires a controlling interest of a registered operator, that person shall register
30 with the Department in accordance with this act. The operator may continue to operate during the
31 registration period unless the Department has reasonable cause to believe that person is or may be
32 in violation of the provisions of this Chapter. The Department may require the operator to suspend
33 the operation of any fantasy contest until registration is issued or denied.

34 **"§ 78E-7. Powers and duties of the Department.**

35 (a) The Department shall have all powers and duties necessary to carry out the provisions
36 of this Chapter. The Department may, in accordance with Chapter 150B of the General Statutes,
37 adopt rules necessary to carry out the provisions of this Chapter.

38 (b) The Department may apply to the superior court for an injunction to restrain any
39 person from violating the provisions of this Chapter or its rules. Actions under this section shall be
40 brought in the county where the operator maintains its principal place of business or where the
41 alleged acts occurred.

42 (c) Whenever the Department has reasonable cause to believe that a violation of any of the
43 provisions of this Chapter may have occurred, the Department may, upon its own motion or upon
44 complaint of any person, investigate any operator to determine whether a violation has occurred.

45 **"§ 78E-8. Confidential information.**

46 Reports, data, or documents submitted to the Department pursuant to the audit requirements of
47 this Chapter and records submitted to the Department as part of an application for registration or
48 renewal that contain information about the character or financial responsibility of the operator or
49 its principal stockholders are confidential and shall not be considered public records within the
50 meaning of Chapter 132 of the General Statutes.

51 **"§ 78E-9. Fantasy contests not considered gambling.**

1 Fantasy contests conducted pursuant to this Chapter do not constitute gambling, lotteries,
2 gaming, or any activity or enterprise subject to or prohibited by Chapter 14, 16, or 19 of the
3 General Statutes, or any other provision of law. The award of prize money for any fantasy contest
4 shall not be deemed to be part of any gaming contract prohibited pursuant to Chapter 16 of the
5 General Statutes.

6 **"§ 78E-10. Operator control of contests.**

7 Nothing in this Chapter shall be construed to limit the ability of an operator to control or
8 conduct its contests or to provide a uniform gameplay platform for players in multiple
9 jurisdictions."

10 **SECTION 2.** G.S. 18B-500 reads as rewritten:

11 **"§ 18B-500. Alcohol law-enforcement agents.**

12 ...

13 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
14 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
15 enforcement actions for any criminal offense. The primary responsibility of an agent shall be
16 enforcement of the ABC and lottery laws, ~~laws,~~ as well as the enforcement of the provisions of
17 Chapter 78E of the General Statutes.

18 (c) Territorial Jurisdiction. – An alcohol law-enforcement agent is a State officer with
19 jurisdiction throughout the State.

20 (d) Service of ~~Commission~~ Orders. – Alcohol law-enforcement agents may serve and
21 execute notices, orders, or demands issued by the Secretary of State, pursuant to Chapter 78E of
22 the General Statutes, the Alcoholic Beverage Control Commission or the North Carolina State
23 Lottery Commission for the surrender of permits or relating to any administrative proceeding.
24 While serving and executing such notices, orders, or demands, alcohol law-enforcement agents
25 shall have all the power and authority possessed by law-enforcement officers when executing an
26 arrest warrant.

27"

28 **SECTION 3.** This act becomes effective January 1, 2018.