

CHAPTER 69
FORMERLY
HOUSE BILL NO. 190

AN ACT TO AMEND TITLE 29 AND TITLE 30 OF THE DELAWARE CODE RELATING TO INTERACTIVE FANTASY CONTESTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 48, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

CHAPTER 48. LOTTERIES

Subchapter III. Interactive Fantasy Contests [~~Expires July 1, 2019, pursuant to § 4860 of this title~~]

§ 4860 Short title [~~Expires July 1, 2019, by its own terms~~]

This subchapter shall be known and may be cited as the "Delaware Interactive Fantasy Contests Act." ~~The provisions of this subchapter shall expire on July 1, 2019, unless reauthorized. The Director of the Delaware Division of Gaming Enforcement shall report to the General Assembly on recommendations for revisions to this subchapter by January 1, 2019.~~

§ 4861 Legislative findings and purpose [~~Expires July 1, 2019, pursuant to § 4860 of this title~~]

§ 4862 Definitions [~~Expires July 1, 2019, pursuant to § 4860 of this title~~]

(2) "Authorized player" means an individual, who is not ~~a prohibited player, prohibited by this subchapter,~~ that participates in an interactive fantasy sports contest offered by a registrant.

(3) ~~"Collegiate sport or athletic event" means 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.~~

(4) [~~Repealed.~~]

(12) [~~Repealed.~~]

(17) "Prohibited players" means any of the following:

- a. ~~A member, officer, employee or agent of an operator or registrant.~~
- b. ~~A 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. ~~An individual with access to nonpublic confidential information about contests.~~
- d. ~~Professional athlete or officiate whose performance may be used to determine the outcome of a contest, in the sport in which that professional athlete or officiate competes or officiates.~~
- e. ~~A minor.~~

(18) () "Prohibited sports event" means any ~~collegiate sport or athletic event,~~ collegiate sporting event that involves a Delaware college or university, or any high school sport or athletic ~~event event,~~ or any horse racing event.

§ 4863 Registration [~~Expires July 1, 2019, pursuant to § 4860 of this title~~]

(a) ~~Registration requirement.~~

~~(1) No operator shall administer, manage, or otherwise make available an interactive fantasy sports platform to persons located in Delaware unless registered with the Director pursuant to § 4864 of this title. A registrant may use multiple interactive fantasy sports platforms and offer multiples types of contests. This subchapter, and any and all rules and regulations adopted under the authority of this subchapter, shall apply only to interactive fantasy sports contests for which an authorized player pays an entry fee.~~

~~(2) Any operator that offered contests to persons located in Delaware prior to August 25, 2017, may offer contests to persons located in Delaware from August 25, 2017, until 60 days after applications for registration are made available to the public by the Director. Operators who have applied for registration during that 60-day period may continue to operate until such operator's application for registration has been approved or denied in accordance with § 4864 of this title. Operators who have not applied for registration shall cease operations in this State by the expiration of the 60-day period.~~

§ 4864 Scope of registration review ~~{Expires July 1, 2019, pursuant to § 4860 of this title}~~

(h) The Director may issue a temporary registration for good cause and upon a finding that the issuance of a temporary registration is necessary to allow for the efficient operation of daily interactive fantasy sports. Temporary registration shall remain in effect for no more than 12 months from the date of issuance.

§ 4865 Required safeguards; minimum standards ~~{Expires July 1, 2019, pursuant to § 4860 of this title}~~

(a) As a condition of registration, each operator and registrant shall implement commercially reasonable measures to:

(1) Limit each authorized player to 1 active and continuously used account, ~~and prevent prohibited players from maintaining accounts or participating in any contest offered by such operator or registrant.~~

(2) Prohibit minors from participating in any contest, which includes:

a. If a registrant becomes or is made aware that a minor has participated in 1 of its contests, such registrant shall promptly, within no more than 2 business days, refund any deposit received from the minor, whether or not the minor has engaged in or attempted to engage in a contest; provided, however, that any refund may be offset by any prizes already awarded;

b. Each registrant shall publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any contest or platform; and

c. Each registrant shall take appropriate steps to confirm that an individual opening an account is not a minor.

(3) Prohibit employees of the registrant and any family members living in the same household as those employees from competing in a public interactive sports contest.

(4) Prohibit individuals who participate or officiate in a sports event that is the subject of a fantasy contest from entering an interactive fantasy sports contest that is determined, in whole or in part, on the accumulated statistical results of the sports event in which the individual is participating or officiating.

(e) Operators shall not directly or indirectly operate, promote or advertise any platform or contest to persons located in ~~Delaware state~~ this state, unless such operation, promotion or advertising is pursuant to this subchapter ~~or the operators conducted business in Delaware prior to July 26, 2017.~~

(g) Registrants shall not permit any minor ~~or prohibited participant~~ to enter any contest.

(h) Advertisements for contests and prizes offered by a registrant shall not target ~~prohibited participants~~, minors, or self-excluded persons. Representations or implications about average winnings from contests shall not be unfair or misleading. Such representations shall include, at a minimum:

(1) The median and mean net winnings of all authorized players participating in contests offered by such registrant; and

(2) The percentage of winnings awarded by the registrant to highly experienced players participating in contests offered by such registrant within the preceding calendar year.

§ 4866 Powers and duties of the Director ~~{Expires July 1, 2019, pursuant to § 4860 of this title}~~

§ 4867 Annual report ~~{Expires July 1, 2019, pursuant to § 4860 of this title}~~

§ 4871 Contests authorized ~~{Expires July 1, 2019, pursuant to § 4860 of this title}~~

§ 4872 Contests prohibited ~~{Expires July 1, 2019, pursuant to § 4860 of this title}~~

§ 4873 Unregistered practice ~~{Expires July 1, 2019, pursuant to § 4860 of this title}~~

Section 2. Amend Chapter 23, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 2301 Occupations requiring licenses; definitions; fees; exemptions ~~{Paragraphs (a)(27) and (d)(3) expire July 1, 2019, pursuant to § 4860 of Title 29; see paragraph (d)(3)c. of this section}~~

(a) "Persons" as defined in § 2701 of this title engaged in the occupations listed and defined in this section shall pay annual license taxes at the rates specified below. In addition to the license fee indicated below, each such person shall pay a fee of \$25 for each additional branch or business location, except that a finance or small loan agency as defined in this section shall pay the basic annual fee for each place of business.

(27) ~~{Expires July 1, 2019, pursuant to § 4860 of Title 29; see paragraph (d)(3)c. of this section}~~.
Interactive fantasy sports registrant, \$50,000. "Interactive fantasy sports registrant" shall have the same meaning as set forth in § 4862 of Title 29.

(d)(1) In addition to the license fee required by subsections (a) and (b) of this section, every person shall also pay a license fee at the rate of 0.3983% of the aggregate gross receipts paid to such person attributable to activities licensable under this chapter, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of \$100,000. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

(2) Notwithstanding paragraph (d)(1) of this section, if the taxable gross receipts prescribed by paragraph (d)(1) of this section during the lookback period as defined in § 2122 of this title do not exceed the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

(3)a. ~~[Expires July 1, 2019, pursuant to § 4860 of Title 29; see paragraph (d)(3)e. of this section].~~ For persons described in paragraph (a)(27) of this section, for the privilege of conducting interactive fantasy sports contests in the State, interactive fantasy sports registrants shall also pay a license fee at a rate equal to ~~the greater of 15.5% or the highest rate adopted by another state,~~ of their aggregate interactive fantasy sports gross receipts generated within the State. For purposes of this section, "interactive fantasy sports gross receipts" means an amount equal to the total of all entry fees that the registrant collects from all authorized players, less the total of all sums paid out as winnings to all authorized players, multiplied by the "resident percentage," as defined in § 4862 of Title 29. ~~If the Secretary of Finance determines that another state is imposing an operating fee percentage greater than 15.5%, the Secretary of Finance shall, not later than the end of a calendar quarter, notify all registrants, in writing, of the increased rate to be imposed on such registrant's interactive fantasy sports gross receipts generated within the State during the next succeeding calendar quarter.~~

b. The fees provided by this section shall be remitted to the Division of Revenue on forms issued by the Director of Revenue and subject to such regulations and requirements as shall be prescribed by the Director of Revenue. The Director of Revenue shall deposit the license fees imposed by paragraphs (a)(27) and (d)(3) of this section on interactive fantasy sports registrants to the credit of the general fund, net of administrative expenses incurred by the Division of Revenue in enforcing this subsection and the Division of Gaming Enforcement in enforcing Chapter 48 of Title 29.

~~e. Paragraphs (a)(27) and (d)(3) of this section shall expire upon the expiration of Chapter 48 of Title 29.~~

Section 3. If any provision of this Act or the application thereof to any person or circumstance is held invalid, unenforceable or unconstitutional, the remainder of such provisions, and the application of such provisions to any person or circumstances other than those as to which it is held invalid, shall not be affected.

Approved June 26, 2019