

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission (MGC) under section 313.955, RSMo Supp. 2016, the commission adopts a rule as follows:

11 CSR 45-40.040 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 3, 2016 (41 MoReg 1316). Changes have been made to the text of the proposed rule, so it is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on this proposed rule on November 2, 2016. Two people commented on this proposed rule at the public hearing and also submitted those comments in writing. The MGC staff commented on this rule.

COMMENT #1: Sean Ostrow, on behalf of FanDuel, requested section (1) “be qualified by a limitation on the types of information requested by the MGC,” by modifying the language to read, “All licensed operators shall provide all information *pertaining to Missouri fantasy sports contests* requested by the commission.” In addition, he also asked for clarification regarding “the manner of access/transmittal proposed by the MGC.”

RESPONSE: Adding the phrase “*pertaining to Missouri fantasy sports contests*” would limit access to information potentially needed for fulfilling the commission’s statutory duties. The manner of access/transmittal would vary based on the type and size of the requested information. No changes were made as a result of this comment.

COMMENT#2: Derek Hein, on behalf of DraftKings, suggested that “the MGC consider changing the time period for requested documents to be provided to the Commission from seven days to thirty days” in section (1).

RESPONSE: Delaying access to information for thirty (30) days could hamper the ability of the commission to perform its statutory duties. The existing language of the rule grants discretion to the commission in setting a timeframe for delivery of the requested information. No changes were made as a result of this comment.

COMMENT #3: Mr. Ostrow, on behalf of FanDuel, expressed concerns regarding the breadth of subsection (6)(D) which would require reporting “potentially minor criminal infractions, concerning *all employees*. As a company with over 300 employees in multiple states and countries, we believe this is unduly burdensome and impracticable, and would request that this reporting requirement not extend beyond those enumerated ‘key persons’.”

RESPONSE AND EXPLANATION OF CHANGE: Section 313.910.4(2), RSMo grants the commission the discretion to revoke or suspend any licensee if one of the licensee’s employees “Is or has pled guilty or been convicted of any illegal, corrupt, or fraudulent act, practice, or conduct in connection with any fantasy sports contest in this or any other state or has pled guilty

or been convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust within the ten years prior to the date of application for registration.” Section (6) was revised to limit the reporting requirements to include only those offenses that could lead to denial, suspension, or revocation of a Fantasy Sports Contest Operator license as set forth in the statute.

COMMENT #4: The MGC noted that the Revisor of the *Missouri Revised Statutes* renumbered the sections of the statute created by HB 1941, the Missouri Fantasy Sports Consumer Protection Act (The Act).

RESPONSE AND EXPLANATION OF CHANGE: The Commission revised section (4) and the authority section of this rule to reference the renumbered sections of The Act.

11 CSR 45-40.040 Fantasy Sports Contest Operator Responsibilities

(4) For the purposes of this rule, “material change” shall mean any change in personal identification or residence information, such as name, address, and phone number; information required in section 313.945, RSMo; or other information that might affect an applicant or licensed operator’s suitability to hold a FSCO license, including, but not limited to, significant changes in financial condition, legally defaulting on a debt owed to the State of Missouri, arrests, convictions, guilty pleas, disciplinary actions, or license denial, suspension, or revocation in other jurisdiction(s).

(6) In addition to all other reporting requirements, FSCO license applicants and licensed operators shall notify the commission within fifteen (15) days after receiving notification that any of the following persons has received a subpoena or is the target of, has been disciplined by, or has been charged in connection with an investigation by a regulatory, administrative, or prosecutorial agency of a violation of a rule, regulation, or statute relating to licensed gambling, fantasy sports contests, Securities and Exchange Commission (SEC) regulations, or criminal offenses, to include any illegal, corrupt, or fraudulent act, practice, or conduct in connection with any fantasy sports contest in Missouri or any other state, a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust. An “offense” does not include infractions, traffic violations, or parking violations, except for driving while revoked/suspended, alcohol/drug-related traffic violations, and leaving the scene of an accident.

AUTHORITY: sections 313.910, 313.915, 313.925, 313.930, 313.935, 313.950, and 313.955, RSMo 2016. Emergency rule filed August 29, 2016, effective Sept. 8, 2016, expires March 6, 2017. Original rule filed Aug. 29, 2016.