

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

EMERGENCY RULE

11 CSR 45-40.050 Operational Requirements for Fantasy Sports Contest Operators

PURPOSE: This rule provides operational requirements for fantasy sports contest operators (FSCOs).

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 \$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 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 rulemaking 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 operational requirements, as well as requirements for licensees to maintain and provide the commission with documentation of its procedures for complying with the provisions of chapter 313, RSMo.

*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. A proposed rule covering the same material is published in this issue of the **Missouri Register**. 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) Each licensed operator shall maintain on file with the commission the following:
 - (A) A current set of procedures for a registered player to report complaints to the licensed operator regarding whether his or her account has been misallocated, compromised, or otherwise mishandled, and a procedure for the licensed operator to respond to those complaints;
 - (B) A current detailed description of the security standards utilized to prevent access to fantasy sports contests (FSC) by a person whose location and age have not been verified in accordance with section 313.940, RSMo;
 - (C) A detailed description of measures used to determine the true identity, date of birth, and address of each player seeking to open an account;
 - (D) A detailed description of the measures taken and procedures implemented to clearly and conspicuously publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any FSC;
 - (E) A detailed description of the standards and procedures used to monitor FSC to detect the use of unauthorized scripts and restrict players found to have used such scripts from further FSC;
 - (F) A detailed description of its procedures and measures taken to clearly and conspicuously identify highly experienced players in FSC by a symbol attached to a player's username, or by other easily visible means, on the licensed operator's authorized internet website; and
 - (G) A detailed description of its online self-exclusion process.
- (2) The information required by section (1) and all supplemental documents shall be submitted with the initial application and within five (5) days of any subsequent revision.

(3) Upon request, each licensed operator shall provide the commission with a current and accurate list of Missouri residents who have submitted the operator's online self-exclusion form, which the licensed operator developed pursuant to section 313.940, RSMo.

(4) Each licensed operator shall take commercially and technologically reasonable measures to comply with the provisions of sections 313.930 and 313.940, RSMo regarding the verification of each FSC player's true identity, date of birth, and address, including but not limited to independent verification of age using information obtained from independent sources outside of the player seeking to open an account. Third party services may be used to verify the age of a player. Each licensed operator shall use such information, at a minimum, to prevent underage individuals from establishing accounts, to verify state of residence, and to prevent players from establishing more than one (1) account or username or playing anonymously.

(5) Upon discovery of a registered account held by a minor, the FSCO shall promptly refund any money held in a minor's account, whether or not the minor has engaged in or attempted to engage in game play. A FSCO may refuse to award a prize to a minor upon a good-faith determination, following reasonable investigation, that the minor misrepresented his or her age in order to enter the FSC, provided, however, that such prize must then be awarded to another participant in the contest who would have won the prize had the minor not participated.

(6) Prior to conducting any individually targeted advertising or marketing, but not more than once a week, the licensed operator shall do the following:

(A) Download the current List of Disassociated Persons (DAP List) and the MGC Excluded Persons List from the designated MGC server;

(B) For email marketing campaigns, compare the email addresses from the marketing list to the DAP List and the MGC Excluded Persons List and remove anyone whose email address is found to be on either List (DAP or Excluded);

(C) For direct mail marketing campaigns to non-registered players, search and remove from the marketing list any person who has the same name and address of any person found to be on either List (DAP or Excluded); and

(D) For direct mail marketing campaigns to registered players, search and remove from the marketing list any player who has the same date of birth, first or last name, and address of an individual on either List (DAP or Excluded).

(7) If a licensed operator ceases offering fantasy sports contests in Missouri, the licensed operator shall notify the commission of the date of cessation. Notice shall be provided within ten (10) days of the cessation.

*AUTHORITY: sections 313.930, 313.940, 313.950, 313.1010, and 313.1020, RSMo (HB 1941, Second Regular Session, Ninety-eighth General Assembly, 2016). Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expires March 6, 2017. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*