



January 29, 2016

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## SENATE BILL No. 339

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DIGEST OF SB 339 (Updated January 27, 2016 4:09 pm - DI 110)

**Citations Affected:** IC 4-31; noncode.

**Synopsis:** Daily fantasy sports. Provides that paid fantasy sports games conducted in accordance with the paid fantasy sports game statute do not constitute gambling. Provides that paid fantasy sports games may be conducted through an Internet web site maintained and operated by a game operator or on the premises of certain licensed facilities under a contract between a game operator and the owner of the licensed facility. Provides for the regulation of paid fantasy sports games by the paid fantasy sports division of the horse racing commission. Provides that an individual must be at least 18 years of age to participate in a paid fantasy sports game. Provides that any prize awarded in a paid fantasy sports game must be made known before the paid fantasy sports game begins. Requires a game operator to implement certain procedures concerning: (1) preventing certain individuals from competing in paid fantasy sports games; (2) verifying that a game participant is at least 18 years of age; (3) allowing individuals to restrict themselves from entering paid fantasy sports games; and (4) disclosing the number of paid fantasy sports games a single game participant may enter. Establishes the fantasy sports regulation and administration fund. Provides that fees and civil penalties under the fantasy sports regulation provisions would be deposited in the fantasy sports regulation and administration fund. Appropriates money in the fund for the state fiscal year beginning July 1, 2016, and ending June 30, 2017.

**Effective:** July 1, 2016.

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**Ford, Alting, Yoder, Arnold J, Kruse,  
Randolph Lonnie M**

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January 7, 2016, read first time and referred to Committee on Public Policy.  
January 28, 2016, amended, reported favorably — Do Pass.

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SB 339—LS 6884/DI 107





January 29, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## SENATE BILL No. 339

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A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1           SECTION 1. IC 4-31-14 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2016]:  
4           **Chapter 14. Paid Fantasy Sports**  
5           **Sec. 1. A paid fantasy sports game conducted under this chapter**  
6 **does not constitute gambling for purposes of IC 35-45-5.**  
7           **Sec. 2. As used in this chapter, "confidential information"**  
8 **means information related to the play of paid fantasy sports games**  
9 **by game participants obtained solely as a result of or by virtue of**  
10 **a person's employment.**  
11           **Sec. 3. As used in this chapter, "division" refers to the paid**  
12 **fantasy sports division established by section 10 of this chapter.**  
13           **Sec. 4. As used in this chapter, "game operator" means a person**  
14 **who:**  
15               **(1) is engaged in the business of professionally conducting**  
16               **paid fantasy sports games for cash prizes for members of the**  
17               **general public; and**

SB 339—LS 6884/DI 107



- 1           (2) requires cash or a cash equivalent as an entry fee to be  
2           paid by a member of the general public who participates in a  
3           paid fantasy sports game.
- 4           **Sec. 5.** As used in this chapter, "game participant" means an  
5           individual who participates in a paid fantasy sports game offered  
6           by a game operator.
- 7           **Sec. 6.** As used in this chapter, "licensed facility" means any of  
8           the following:
- 9           (1) A satellite facility licensed under IC 4-31-5.5.  
10          (2) A riverboat (as defined by IC 4-33-2-17).  
11          (3) A gambling game facility operated under IC 4-35.
- 12          **Sec. 7.** As used in this chapter, "licensee" means any of the  
13          following:
- 14          (1) A permit holder (as defined by IC 4-31-2-14).  
15          (2) A licensed owner (as defined by IC 4-33-2-13).  
16          (3) An operating agent (as defined by IC 4-33-2-14.5).
- 17          **Sec. 8.** As used in this chapter, "paid fantasy sports game"  
18          means any fantasy or simulation sports game or contest that meets  
19          the following conditions:
- 20          (1) The values of all prizes and awards offered to winning  
21          game participants are established and made known to the  
22          game participants in advance of the game or contest.  
23          (2) All winning outcomes reflect the relative knowledge and  
24          skill of the game participants and are determined  
25          predominantly by accumulated statistical results of the  
26          performance of individuals, including athletes in the case of  
27          sporting events.  
28          (3) No winning outcome is based on the score, point spread, or  
29          performance or performances of any single team or  
30          combination of teams, or solely on any single performance of  
31          an individual athlete or player in any single event.  
32          (4) The statistical results of the performance of individuals  
33          under subdivision (2) are not based on college or high school  
34          sports.
- 35          **Sec. 9.** As used in this chapter, "person" means any association,  
36          corporation, limited liability company, fiduciary, individual, joint  
37          stock company, joint venture, partnership, sole proprietorship, or  
38          other private legal entity.
- 39          **Sec. 10.** The paid fantasy sports division is established within the  
40          commission.
- 41          **Sec. 11.** The division may do the following:
- 42          (1) Investigate and reinvestigate applicants, game operators,



1 and licensees with whom a game operator has entered into a  
2 contract under section 12 of this chapter.

3 (2) Investigate alleged violations of this chapter.

4 (3) Take appropriate administrative enforcement or  
5 disciplinary action against a person who violates this chapter.

6 (4) Conduct hearings.

7 (5) Issue subpoenas for the attendance of witnesses and  
8 subpoenas duces tecum for the production of books, records,  
9 and other relevant documents.

10 (6) Administer oaths and affirmations to witnesses.

11 **Sec. 12. A game operator may:**

12 (1) conduct one (1) or more paid fantasy sports games  
13 through an Internet web site maintained and operated by the  
14 game operator; or

15 (2) contract with a licensee to conduct one (1) or more paid  
16 fantasy sports games on the premises of a licensed facility.

17 **Sec. 13. (a) A game operator must:**

18 (1) be authorized to transact business in Indiana under IC 23;  
19 and

20 (2) pay to the division the initial fee imposed under subsection  
21 (b).

22 (b) A game operator shall pay to the division an initial fee of five  
23 thousand dollars (\$5,000) for the privilege of conducting paid  
24 fantasy sports games under this chapter.

25 (c) A game operator shall annually pay to the division a five  
26 thousand dollar (\$5,000) fee on the anniversary date of the  
27 payment made under subsection (b) to renew the privilege of  
28 conducting paid fantasy sports games under this chapter.

29 (d) The division shall deposit all fees received under this section  
30 in the fantasy sports regulation and administration fund.

31 **Sec. 14. A game operator must do the following to conduct paid  
32 fantasy sports games under this chapter:**

33 (1) Provide written notice to the division of the game  
34 operator's intent to conduct paid fantasy sports games under  
35 this chapter.

36 (2) Submit for the division's approval any proposed contract  
37 with a licensee through which the game operator intends to  
38 conduct paid fantasy sports games under this chapter.

39 (3) Submit a plan for doing the following:

40 (A) Verifying the identity and age of patrons who wish to  
41 participate in a paid fantasy sports game conducted under  
42 this chapter.



1 (B) Maintaining the security of the identifying and  
 2 financial information of game participants participating in  
 3 paid fantasy sports games conducted under this chapter.

4 (C) Promoting paid fantasy sports games conducted under  
 5 this chapter in a manner that accurately describes the  
 6 relationship between the game operator and a licensee.

7 Sec. 15. (a) A licensee that enters into a contract with a game  
 8 operator to conduct paid fantasy sports games on the premises of  
 9 the licensee's licensed facility shall pay to the division:

10 (1) an initial fee of five thousand dollars (\$5,000) for the  
 11 privilege of conducting paid fantasy sports games under this  
 12 chapter; and

13 (2) in each calendar year thereafter, a five thousand dollar  
 14 (\$5,000) fee on the anniversary date of the payment made  
 15 under subdivision (1) to renew the privilege of conducting  
 16 paid fantasy sports games under this chapter.

17 (b) The division shall deposit all fees received under this section  
 18 in the fantasy sports regulation and administration fund.

19 Sec. 16. A game operator may charge an entry fee to participate  
 20 in a paid fantasy sports game conducted under this chapter.

21 Sec. 17. An individual must be at least eighteen (18) years of age  
 22 to participate in a paid fantasy sports game conducted under this  
 23 chapter.

24 Sec. 18. Any prize awarded in a paid fantasy sports game must  
 25 be made known before the fantasy game begins. The value of a  
 26 prize awarded in the paid fantasy sports game may not be  
 27 determined by the number of game participants in the paid fantasy  
 28 sports game or the amount of entry fees paid by the game  
 29 participants.

30 Sec. 19. A game operator shall implement procedures to do the  
 31 following:

32 (1) Prevent employees of the game operator or a licensee with  
 33 whom the game operator has entered into a contract under  
 34 section 12 of this chapter, and any relative of an employee  
 35 living in the household of the employee from competing in a  
 36 paid fantasy sports game in which the cash prize exceeds five  
 37 dollars (\$5).

38 (2) Prevent an owner, director, or officer of the game  
 39 operator or a licensee with whom the game operator has  
 40 entered into a contract under section 12 of this chapter from  
 41 being a game participant in any paid fantasy sports game  
 42 offered by the game operator.



1 (3) Prevent employees of the game operator or a licensee with  
 2 whom the game operator has entered into a contract under  
 3 section 12 of this chapter from sharing confidential  
 4 information that could affect paid fantasy sports game play  
 5 with third parties until the information is made publicly  
 6 available.

7 (4) Verify that a game participant is at least eighteen (18)  
 8 years of age.

9 (5) Prevent an individual who is a player, game official, or  
 10 other participant in an actual sporting event or competition  
 11 from participating in any paid fantasy sports game that is  
 12 determined in whole or in part on the performance of that  
 13 individual, the individual's actual team, or the accumulated  
 14 statistical results of the sporting event or competition in which  
 15 the individual is a player, game official, or other participant.

16 (6) Allow individuals to restrict themselves from entering paid  
 17 fantasy sports games.

18 (7) Disclose the number of paid fantasy sports games a single  
 19 game participant may enter.

20 Sec. 20. A game operator shall take reasonable steps to do the  
 21 following:

22 (1) Prevent the participation in paid fantasy sports games of  
 23 individuals who have restricted themselves from entering paid  
 24 fantasy sports games.

25 (2) Prevent game participants from entering more than the  
 26 maximum number of allowed paid fantasy sports games.

27 Sec. 21. A game operator shall segregate the funds of game  
 28 participants from the operational funds of the game operator.

29 Sec. 22. For the protection of the funds of game participants  
 30 held in paid fantasy sports game accounts, a game operator shall  
 31 maintain a reserve in the form of cash, cash equivalents, an  
 32 irrevocable letter of credit, a bond, or a combination of these  
 33 sources that is equal to the amount of money deposited in paid  
 34 fantasy sports game accounts of game participants.

35 Sec. 23. A game operator shall contract annually with a certified  
 36 public accountant to perform a financial audit of the game  
 37 operator's paid fantasy sports game operations under this chapter  
 38 to ensure compliance with this chapter. The game operator shall  
 39 submit the results of the audit to the division. The same certified  
 40 public accountant may not perform more than two (2) consecutive  
 41 financial audits for a game operator under this section.

42 Sec. 24. The division may impose a civil penalty upon a game



1 operator, a licensee, or an employee of a game operator or a  
 2 licensee for a violation of this chapter. The maximum amount of a  
 3 civil penalty imposed under this section for a particular violation  
 4 is one thousand dollars (\$1,000). The division shall deposit all civil  
 5 penalties received under this section in the fantasy sports  
 6 regulation and administration fund.

7 **Sec. 25.** Entry fees and other revenues received by a licensee  
 8 under a contract with a game operator for conducting paid fantasy  
 9 sports games are not considered to be received from a licensee's  
 10 gaming operations and are not subject to:

- 11 (1) a wagering tax imposed under IC 4-33-13 or IC 4-35-8;
- 12 (2) the fee imposed under IC 4-35-8.5;
- 13 (3) the distribution required under IC 4-35-7-12; or
- 14 (4) any other tax or fee imposed upon a licensee under  
 15 IC 4-31, IC 4-33, or IC 4-35.

16 **Sec. 26. (a)** The fantasy sports regulation and administration  
 17 fund is established to provide for the administration of this  
 18 chapter.

19 (b) The fund consists of:

- 20 (1) any fees and civil penalties deposited in the fund under this  
 21 chapter;
- 22 (2) any money appropriated to the fund by the general  
 23 assembly; and
- 24 (3) any earnings on amounts in the fund.

25 (c) The commission shall administer the fund.

26 (d) The treasurer of state shall invest the money in the fund not  
 27 currently needed to meet the obligations of the fund in the same  
 28 manner as other public funds may be invested.

29 (e) Money in the fund at the end of a state fiscal year does not  
 30 revert to the state general fund but remains in the fund to be used  
 31 exclusively for purposes of this chapter.

32 **SECTION 2.** [EFFECTIVE JULY 1, 2016] (a) Money in the  
 33 fantasy sports regulation and administration fund established by  
 34 IC 4-31-14-26 is appropriated for the state fiscal year beginning  
 35 July 1, 2016, and ending June 30, 2017, for the use by the Indiana  
 36 horse racing commission in administering IC 4-31-14.

37 (b) This SECTION expires June 30, 2017.





## COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 339, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 14, delete "who" and insert "**who:**

**(1)**".

Page 1, line 16, delete "public." and insert "**public; and**

**(2) requires cash or a cash equivalent as an entry fee to be paid by a member of the general public who participates in a paid fantasy sports game.**".

Page 2, between lines 27 and 28, begin a new line block indented and insert:

**"(4) The statistical results of the performance of individuals under subdivision (2) are not based on college or high school sports."**

Page 3, line 23, delete "state general fund. Money deposited under this subsection is" and insert "**fantasy sports regulation and administration fund.**".

Page 3, delete lines 24 through 25.

Page 3, line 26, delete "before".

Page 3, line 27, delete "beginning".

Page 4, line 13, delete "state general fund. Money deposited under this subsection is" and insert "**fantasy sports regulation and administration fund.**".

Page 4, delete lines 14 through 15.

Page 6, line 2, delete "state general fund." and insert "**fantasy sports regulation and administration fund.**".

Page 6, delete lines 3 through 4.

Page 6, after line 13, begin a new paragraph and insert:

**"Sec. 26. (a) The fantasy sports regulation and administration fund is established to provide for the administration of this chapter.**

**(b) The fund consists of:**

**(1) any fees and civil penalties deposited in the fund under this chapter;**

**(2) any money appropriated to the fund by the general assembly; and**

**(3) any earnings on amounts in the fund.**

**(c) The commission shall administer the fund.**

**(d) The treasurer of state shall invest the money in the fund not**



currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

**(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.**

**SECTION 2. [EFFECTIVE JULY 1, 2016] (a) Money in the fantasy sports regulation and administration fund established by IC 4-31-14-26 is appropriated for the state fiscal year beginning July 1, 2016, and ending June 30, 2017, for the use by the Indiana horse racing commission in administering IC 4-31-14.**

**(b) This SECTION expires June 30, 2017."**

and when so amended that said bill do pass.

(Reference is to SB 339 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 8, Nays 0.

