

SENATE FLOOR AMENDMENTS

2020 Regular Session

Amendments proposed by Senator Peacock to Engrossed House Bill No. 357 by Representative Magee

1 AMENDMENT NO. 1

2 Delete the set of Senate Committee Amendments, proposed by the Senate Committee on
3 Judiciary A and adopted by the Senate on May 27, 2020, designated as SCAHB357
4 CORLEYM 1993, in their entirety.

5 AMENDMENT NO. 2

6 On page 1, delete lines 2 through 6, and insert, "To amend and reenact R.S. 27:302 and 304
7 and to enact R.S. 27:306 through 315, relative to fantasy sports contests; to provide relative
8 to the Louisiana Fantasy Sports Contests Act; to provide for definitions; to provide for the
9 licensing and regulation of fantasy sports contests, operators, and players; to provide relative
10 to suitability of fantasy sports contest operators; to provide relative to the issuance or denial
11 of licenses; to prohibit the transfer of licenses; to provide penalties for allowing certain
12 persons to be a fantasy sports contest player; to provide relative to administrative rules; to
13 provide for periodic reporting; to provide relative to civil penalties; to provide relative to
14 revocation or suspension of a license; to provide relative to investigations; to provide for
15 obligations to participants; to provide for inactive accounts; to provide for"

16 AMENDMENT NO. 3

17 On page 1, delete lines 9 through 20, on page 2, delete lines 1 through 29, on page 3, delete
18 lines 1 through 16, and insert the following:

19 "Section 1. R.S. 27:302 and 304 are hereby amended and reenacted and R.S.
20 27:306 through 315 are hereby enacted to read as follows:

21 §302. Definitions

22 For purposes of this Chapter:

23 (1) "Board" means the Louisiana Gaming Control Board.

24 (2) "Confidential information" means information related to the play of a
25 fantasy sports contest by fantasy sports contest players that is obtained as a result of
26 or by virtue of a person's employment.

27 (3) "Entry fee" means cash or cash equivalent that is required to be paid by
28 a fantasy sports contest participant to a fantasy sports contest operator in order to
29 participate in a fantasy sports contest.

30 (2)(4) "Fantasy sports contest" means any fantasy or simulation sports game
31 or contest played through the internet or mobile device with all of the following
32 elements:

33 (a) Participants create a simulation sports team based on the current
34 membership of real-world amateur or professional sports organizations.

35 (b) All prizes and awards offered to winning participants are established and
36 made known to the participants in advance of the game or contest, and the value of
37 the prizes or awards is not determined by the number of participants or the amount
38 of any fees paid by those participants.

39 (c) All winning outcomes reflect the relative knowledge and skill of the
40 participant and are predominantly determined by accumulated statistical results of
41 the performance of the individuals, including athletes in the case of sporting events.

42 (d) No winning outcome is based on either of the following:

43 (i) On the score, point-spread, or any performance or performances of any
44 single real-world team or any combination of such teams.

45 (ii) Solely on any single performance of an individual athlete in any single
46 real-world sporting or other event.

47 (5) "Fantasy sports contest operator" or "operator" means a suitable person
48 domiciled in Louisiana or a domestic business entity or a foreign corporation that is

1 licensed by the board to offer a platform for the playing of fantasy sports contests,
2 to administer one or more fantasy sports contests with an entry fee, and to award a
3 prize of value.

4 (6) "Fantasy sports contest player" or "player" means a person who
5 participates in a fantasy sports contest offered by a fantasy sports contest operator.

6 (7) "Gross fantasy sports contest revenues" means the amount equal to the
7 total of all entry fees that a fantasy sports contest operator collects from all fantasy
8 sports contest players, multiplied by the location percentage for the state of
9 Louisiana.

10 (8) "Location percentage" means, for each fantasy sports contest, the
11 percentage rounded to the nearest tenth of a percent of the total of entry fees
12 collected from fantasy sports contest players located in the state of Louisiana,
13 divided by the total entry fees collected from such players participating in fantasy
14 sports contests.

15 (9) "Net revenue" means for all fantasy sports contests, the amount equal to
16 the total entry fees collected from all participants entering such fantasy sports
17 contests, less the winnings paid to participants in the contests.

18 * * *

19 §304. Gaming Control Board; duties and powers

20 A. The board shall perform the duties and functions as authorized by the
21 provisions of this Chapter and the regulatory authority with respect to the regulation
22 of fantasy sports contests as provided by R.S. 27:15.

23 B. (1) The board shall adopt, pursuant to the Administrative Procedure Act,
24 all rules necessary to implement, administer, and regulate fantasy sports contests as
25 authorized in this Chapter. The rules shall include but not be limited to the following:

26 (a) The issuance of any license, contract, or permit authorized by this
27 Chapter, subject to regulation of the board.

28 (b) The methods of and forms and procedures for making an application for
29 a license, contract, or permit to be considered by the board.

30 (c) The methods of and forms for providing to the board information
31 concerning a person's family, habits, character, associates, criminal record, business
32 activities, and financial affairs.

33 (d) Enforcement of this Chapter, gaming laws administered by the board, and
34 rules of the board, including imposition and collection of fines, penalties, and other
35 sanctions which may be imposed by the board against an operator or any other
36 licensee or permittee of the board.

37 (2) Not later than August 1, 2020, the board shall institute rulemaking
38 procedures as necessary to implement the provisions of this Subsection.

39 C.(1) In accordance with R.S. 27:306(C) and (D) and the Administrative
40 Procedure Act, the board may assess and provide for the imposition and collection
41 of such fees as may be necessary to defray administrative costs associated with the
42 application for and the investigation, granting, or renewal of licenses and
43 enforcement of this Chapter.

44 (2) Any fine or other monetary penalty collected by the board or its staff shall
45 be remitted to state treasury for deposit into the state general fund.

46 D. Upon direction of the board, the office of state police and the attorney
47 general shall submit proposed rules to the board for consideration, modification, and
48 promulgation as provided in this Section.

49 E. The board shall not adopt rules and regulations pertaining to campaign
50 finance and contributions which are more restrictive than the provisions of law found
51 generally in Chapter 11 of Title 18 of the Louisiana Revised Statutes of 1950, and
52 specifically in R.S. 18:1505.2(L).

53 * * *

54 §306. Licensing of fantasy sports contest operators

55 A. No fantasy sports contest operator shall offer any fantasy sports contest
56 in this state without first being licensed by the board. Applications for licensure
57 shall be on forms provided by the board.

58 B. Before obtaining a license to offer fantasy sports contests in this state, a
59 fantasy sports contest operator shall:

60 (1) Be a person domiciled in Louisiana or a domestic business entity with a
61 certificate of existence from the Secretary of State and in good standing or a foreign

1 corporation with a certificate of authority to transact business in this state from the
2 Secretary of State and in good standing.

3 (2) Demonstrate to the board that the operator is suitable for licensing
4 pursuant to R.S. 27:28.

5 (3) Provide the board with financial statements indicating any gross fantasy
6 sports contest revenue for the previous three years.

7 C. The initial application fee shall be one thousand dollars and shall be non-
8 refundable.

9 D. The license fee for a fantasy sports contest license shall be submitted to
10 the division prior to the issuance of the license. Each license shall be granted for a
11 term of three years. The license fee shall be as follows:

12 (1) If the three year average of the licensee's gross fantasy sports contest
13 revenue is less than one hundred thousand dollars or the licensee has no previous
14 revenue, the fee shall be five thousand dollars.

15 (2) If the three year average of the licensee's gross fantasy sports contest
16 revenue is one hundred thousand dollars or more, but less than three hundred
17 thousand dollars, the fee shall be fifteen thousand dollars.

18 (3) If the three year average of the licensee's gross fantasy sports contest
19 revenue is more than three hundred thousand dollars, the fee shall be forty thousand
20 dollars.

21 (4) The renewal fee for a fantasy sports contest license shall be submitted to
22 the division on the anniversary date of the issuance of the license and shall be
23 assessed in the same manner as the original license fee was assessed.

24 E. All fees, fines, and other monies collected by the division, pursuant to this
25 Chapter, shall be forwarded upon receipt to the state treasurer for immediate deposit
26 into the state treasury. An amount shall be allocated to the Department of Public
27 Safety and Corrections and to the Department of Justice, pursuant to legislative
28 appropriation, for regulatory, administrative, investigative, enforcement, legal, and
29 other such expenses as may be necessary to carry out the provisions of this Chapter
30 and for activities associated with the enforcement of laws and regulations governing
31 fantasy sports contests.

32 F. Any fantasy sports contest operator that allows its license to lapse, without
33 requesting an extension of time to file for renewal of the license, shall be required
34 to resubmit an initial application for licensure. An extension may be granted by the
35 board upon receipt of a written request prior to the lapse of the license.

36 G. A license issued by the board to a fantasy sports contest operator shall not
37 be transferable.

38 §307. Issuance or denial of license

39 A. The board shall consider all applications for licensure and shall issue a
40 license to an applicant that meets the criteria set forth in this Chapter and as
41 established by the board.

42 B. The board shall deny a license to any applicant who does not meet the
43 criteria as set forth in this Chapter and as established by the board.

44 C. The board shall issue or deny an operator's license within sixty days of
45 receipt of an application for licensure. If a license is not issued, the board shall
46 provide the operator with specific reasons for not issuing a license.

47 D. A license issued by the board to a fantasy sports contest operator shall not
48 be transferable.

49 §308. Licensee requirements

50 A. As a condition of licensure, a fantasy sports contest operator shall submit
51 evidence to the board that the operator has established and will implement
52 commercially reasonable procedures for fantasy sports contests with an entry fee and
53 that:

54 (1) Prevent employees of the fantasy sports contest operator, and relatives of
55 an employee living in the same household as an employee of an operator, from
56 competing in fantasy sports contests offered by an operator in which the operator
57 offers a cash prize to the general public.

58 (2) Prevent sharing of confidential information that could affect fantasy
59 sports contests with third parties until the information is made publicly available.

60 (3) Provide that no winning outcome is based on the score, point spread, or
61 any performance of any single real-world sports team or combination of such teams

1 or solely on any single performance of an individual athlete or participant in any
2 single real-world sporting event.

3 (4) Ensure that any of following persons do not participate in fantasy sports
4 contests:

5 (a) Athletes and individuals who participate in or officiate a game or
6 competition that is a real-world sport or athletic event that is the subject of a fantasy
7 sports contest.

8 (b) Any sports agent, team employee, referee, or league official associated
9 with a real-world sport or athletic event that is the subject of a fantasy sports contest.

10 (5) Verify that a fantasy sports contest player is twenty-one years of age or
11 older.

12 (6) Provide fantasy sports contest players with access to information on
13 responsible play.

14 (7) Provide fantasy sports contest players with access to the fantasy sports
15 contest player's play history and account details that are not confidential.

16 (8) Allow individuals to restrict themselves from entering a fantasy sports
17 contest upon request and provide reasonable steps to prevent the person entering
18 fantasy sports contests offered by an operator.

19 (9) Segregate fantasy sports contest player funds from operational funds or
20 maintain a reserve that exceeds the amount of player funds on deposit, which may
21 not be used for operational activities. Reserve funds may take the form of cash, cash
22 equivalents, payment process reserves, payment processor receivables, an
23 irrevocable letter of credit, a bond, or a combination thereof, in the amount that must
24 exceed the total balances of the fantasy sports contest players' accounts.

25 B. A fantasy sports contest operator shall not offer fantasy sports contests
26 based on the performances of participants in high school or youth athletic events.

27 C. A fantasy sports contest operator shall not offer a fantasy sports contest
28 to the general public that does not establish and make known all prizes and awards
29 offered to winning participants in advance of the game or contest.

30 D. A licensed fantasy sports contest operator shall:

31 (1) Annually contract with a certified public accountant to conduct an
32 independent audit that is consistent with the standards accepted by the American
33 Institute of Certified Public Accountants.

34 (2) Submit to the board a copy of the audit report.

35 (3) Submit financial reports as required by R.S. 27:310.

36 §309. Allowing certain players to play fantasy sports contests; penalties; revocation
37 hearing

38 A.(1) No person licensed pursuant to the provisions of this Chapter, or any
39 agent or employee thereof, shall allow a person under the age of twenty-one years
40 to be a fantasy sports contest player.

41 (2) No person licensed pursuant to the provisions of this Chapter, or any
42 agent or employee thereof, shall allow a person to participate in a fantasy sports
43 contest while located in a parish in which, at the election held pursuant to R.S.
44 27:303, a majority of the qualified electors in the parish voting on the proposition to
45 authorize fantasy sports contests in the parish voted against the proposition.

46 B.(1) The person licensed pursuant to the provisions of this Chapter shall
47 withhold all winnings from fantasy sports contest players who are determined to be
48 under the age of twenty-one years and from fantasy sports contest players
49 participating in a fantasy sports contest while located in a parish in which, at the
50 election held pursuant to R.S. 27:303, a majority of the qualified electors in the
51 parish voting on the proposition to authorize fantasy sports contests in the parish
52 voted against the proposition.

53 (2) The person licensed pursuant to the provisions of this Chapter shall each
54 quarter report and remit to the division all winnings withheld from fantasy sports
55 contest players pursuant to the provisions of this Section.

56 C.(1) Violations of Paragraph (A)(1) of this Section shall be penalized by the
57 division as follows:

58 (a) If the licensee, his employee, or agent reasonably believed that the person
59 was twenty-one years of age or older:

60 (i) For a first or second violation, a fine of up to one thousand dollars shall
61 be imposed.

1 (ii) For a third or subsequent violation, a license revocation hearing shall be
 2 conducted at which time the board shall determine whether or not there are
 3 extenuating circumstances pursuant to which a license suspension or revocation
 4 should not be imposed. At the conclusion of the hearing, the board may revoke or
 5 suspend the license or, in lieu of the revocation or suspension of a license, the board
 6 may impose a civil penalty not to exceed fifty thousand dollars for each violation.
 7 Payment of the civil penalty shall be a requirement for the retention of the license
 8 held by the entity.

9 (b) If the licensee, his employee, or agent is shown to have known or
 10 reasonably believed he was allowing a person under the age of twenty-one years to
 11 be a fantasy sports contest player, or for allowing a person under the age of fifteen
 12 years to be a fantasy sports contest player regardless of what the licensee, his
 13 employee, or agent knew or reasonably believed about the age of that person:

14 (i) For a first or second violation, license revocation may be imposed, or a
 15 fine of one thousand dollars shall be imposed if the license is not revoked.

16 (ii) For a third or subsequent violation, a license revocation hearing shall be
 17 conducted at which time the board shall determine whether or not there are
 18 extenuating circumstances pursuant to which a license suspension or revocation
 19 should not be imposed. At the conclusion of the hearing, the board may revoke or
 20 suspend a license or, in lieu of the revocation or suspension of a license, the board
 21 may impose a civil penalty not to exceed fifty thousand dollars for each violation.
 22 Payment of the civil penalty shall be a requirement for the retention of the license
 23 held by the entity.

24 (2) Violations of Paragraph (A)(2) of this Section shall be penalized by the
 25 division as follows:

26 (a) For a first or second violation, license revocation may be imposed or a
 27 fine of one thousand dollars shall be imposed if the license is not revoked.

28 (b) For a third or subsequent violation, a license revocation hearing shall be
 29 conducted at which time the board shall determine whether or not there are
 30 extenuating circumstances pursuant to which a license suspension or revocation
 31 should not be imposed. At the conclusion of the hearing, the board may revoke or
 32 suspend a license or, in lieu of the revocation or suspension of a license, the board
 33 may impose a civil penalty not to exceed fifty thousand dollars for each violation.
 34 Payment of the civil penalty shall be a requirement for the retention of the license
 35 held by the entity.

36 D.(1) A licensee shall be provided notice of the charged violation and may
 37 concede the violation and accept the penalty or may deny the violation and demand
 38 a hearing be held, pursuant to R.S. 27:25, to make a determination regarding the
 39 charge.

40 (2) A violation shall have occurred only if the charged violation is conceded
 41 by the licensee to have occurred or is found to have occurred at a hearing held for
 42 that purpose.

43 (3) For the purposes of determining whether a second or subsequent violation
 44 has occurred, every violation shall have occurred on a separate occasion, by the same
 45 operator, and only violations that have occurred within a one-year period, regardless
 46 of when they were charged, conceded, or found to have occurred, shall be
 47 considered.

48 (4) For persons having more than one license issued pursuant to the
 49 provisions of this Chapter, license revocation as provided in this Subsection, shall
 50 apply only to the license of the fantasy sports contest operator of the platform on
 51 which the violation occurred.

52 E.(1) It is unlawful for any person under twenty-one years of age to be a
 53 fantasy sports contest player.

54 (2) Whoever violates the provisions of this Subsection shall be fined not more
 55 than one hundred dollars.

56 (3) Any person apprehended while violating the provisions of this Subsection
 57 may be issued a citation by the apprehending law enforcement officer, which shall
 58 be paid in the same manner as provided for the offenders of local traffic violations.
 59 §310. Reporting of gaming proceeds

60 An operator shall periodically report the following information to the
 61 division, which is not confidential and shall be available for public inspection:

- 1 (1) The operator's gross fantasy sports contest revenues.
- 2 (2) The operator's net revenue.
- 3 (3) Quarterly and annual financial statements regarding their operations in
- 4 Louisiana submitted to the division that present historical data, including annual
- 5 financial statements that have been audited by an independent certified public
- 6 accountant as required by R.S. 27:308(D).

7 §311. Civil penalties; adoption of schedule of penalties

8 A. The Louisiana Gaming Control Board shall adopt as a rule the schedule

9 of penalties provided for by this Chapter. All rules shall be adopted pursuant to the

10 provisions of the Administrative Procedure Act.

11 B. A civil penalty shall not exceed fifty thousand dollars for each violation

12 of any provision of this Chapter or rule of the board.

13 C.(1) Payment of the civil penalty shall be a requirement for the retention of

14 any license held by the entity which violated any such provisions.

15 (2)(a) Failure to remit civil penalties shall result in the shutdown of the

16 platform of the operator who refused to remit the civil penalty. The provisions of this

17 Subparagraph shall apply only in those instances where no administrative hearing

18 has been timely requested.

19 (b) Upon payment of the penalty, the platform may be reactivated.

20 D. If the operator contests the imposition of the civil penalty, the penalty

21 shall be imposed only after an adjudicatory hearing is conducted pursuant to R.S.

22 27:25 and a basis for imposition of the penalty is determined to exist.

23 §312. Revocation or suspension of a license; civil penalty

24 A. The board or division, as may be applicable, shall initiate an

25 administrative action and may revoke or suspend the license or permit of any person

26 issued pursuant to the provisions of this Chapter for any of the following:

27 (1) The failure to meet the requirements of suitability as defined in this

28 Chapter or in any rules adopted by the board.

29 (2) The failure to meet the requirements for the issuance of a license as

30 provided for in this Chapter or in any rules adopted by the board.

31 (3) Repeated violations of any of the provisions of this Chapter or any rule

32 of the board governing this Chapter. "Repeated violations" shall mean three

33 violations of the same rule or statutory provision which have occurred on separate

34 occasions by the same operator within a one-year period. The date of a violation

35 shall be considered to be the date the citation for that violation is issued.

36 B. For all other violations not listed in Subsection A of this Section, the board

37 or division, as may be applicable, may issue a civil penalty in accordance with an

38 adopted schedule of penalties as required by R.S. 27:311.

39 C. In addition to or in lieu of the revocation or suspension of a license issued

40 pursuant to the provisions of this Chapter, the board or division, as may be

41 applicable, may impose a civil penalty not to exceed fifty thousand dollars for each

42 violation of any provision of this Chapter or any rule of the board governing this

43 Chapter.

44 D. In lieu of revocation or suspension of a license, the licensee may enter

45 into a consent agreement or settlement to pay a penalty not to exceed fifty thousand

46 dollars.

47 E. No suspension imposed pursuant to the provisions of this Chapter shall

48 exceed a period of thirty days.

49 §313. Investigations and violations

50 A. The division shall conduct such investigations, hearings, and inquiries as

51 it deems necessary to fulfill its responsibilities under the provisions of this Chapter.

52 A license may be suspended prior to a hearing upon a written finding of danger to

53 public health and welfare.

54 B. As a condition of receiving a license under the provisions of this Chapter,

55 each operator agrees that the division and its agents and employees shall have

56 unrestricted access and the right to inspect any premises or electronic platform under

57 the control of the operator in which any activity relating to the provisions of this

58 Chapter is conducted.

59 §314. Limitation on active accounts; obligations to participants

60 An operator shall:

- 61 (1) Limit each authorized player to one active and continuously used account.

1 (2) Publish and facilitate parental control procedures to allow parents or
2 guardians to exclude minors from access to any contest or platform. The procedures
3 shall include a toll-free number to call for help in establishing such parental controls.

4 (3) Make clear conspicuous statements that are not inaccurate or misleading
5 concerning the chances of winning and the number of winners when referencing the
6 chances or likelihood of winning.

7 (4) Permit any authorized player to permanently close an account registered
8 to the player, on any and all platforms supported by the operator, at any time and for
9 any reason.

10 (5) Identify all highly experienced players in any contest by a symbol
11 attached to the players' username, or by other visible means, on all platforms
12 supported by the operator.

13 (6) Implement measures to protect the privacy and online security of
14 authorized players, their account, and their personal financial information.

15 §315. Charging for inactive accounts

16 A. An operator shall not charge a player for an inactive account.

17 B. An operator shall charge players only for entry fees placed or contests
18 entered. No player shall be charged for failure to enter on a fantasy sports contest
19 or for failure to deposit certain amounts of cash or cash equivalent into any account.

20 Section 2. This Act shall become effective upon signature by the governor
21 or, if not signed by the governor, upon expiration of the time for bills to become law
22 without signature by the governor, as provided by Article III, Section 18 of the
23 Constitution of Louisiana. If vetoed by the governor and subsequently approved by
24 the legislature, this Act shall become effective on the day following such approval."