

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

EMERGENCY RULE

11 CSR 45-40.010 Definitions

PURPOSE: This rule provides definitions for terms used relating to Fantasy Sports Contests (FSCs).

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 definitions for terms used relating to fantasy sports contests.

*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) Authorized internet website—an internet website or any platform operated by a licensed operator.
- (2) Entry fee—anything of value including, but not limited to, contest credit, free entry, cash, or a cash equivalent, that a fantasy sports contest operator collects in order to participate in a fantasy sports contest.
- (3) Fantasy sports contest (FSC)—any fantasy or simulated game or contest with an entry fee, conducted on an internet website or any platform, in which:
 - (A) The value of all prizes and awards offered to the winning participants is established and made known in advance of the contest;
 - (B) All winning outcomes reflect in part the relative knowledge and skill of the participants and are determined predominantly by the accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and
 - (C) No winnings outcomes are based on the score, point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event.
- (4) Fantasy sports contest operator (FSCO)—any person or entity that offers FSCs for a prize.
- (5) Highly experienced player— a person who has either:
 - (A) Entered more than one thousand (1,000) contests offered by a single FSCO; or
 - (B) Won more than three (3) fantasy sports prizes of one thousand dollars (\$1,000) or more.
- (6) Key person—an officer, director, trustee, or principal salaried executive staff officer.

(7) Licensed operator—a FSCO licensed pursuant to section 313.920, RSMo to offer FSCs for play on an authorized internet website in Missouri;

(8) Net revenue—for all FSCs, the amount equal to the total entry fees collected from all participants entering such FSCs less winnings paid to participants in the contests, multiplied by the resident percentage.

(9) Officer—the president, vice-president, treasurer, secretary, and other officer identified in an entity’s bylaws or incorporation documents, a member or manager of a limited liability company, a sole proprietor, or a partner.

(10) Principal salaried executive staff officers—means the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function, or any other person who performs similar policy making functions for the FSCO. Executive officers of subsidiaries may be deemed executive officers of the FSCO if they perform such policy making functions for the FSCO.

(11) Prize—anything of value including, but not limited to, cash or a cash equivalent, contest credits, merchandise, or admission to another contest in which a prize may be awarded;

(12) Resident percentage—for all fantasy sports contests, the percentage, rounded to nearest one-tenth of one percent (.1%), of the total entry fees collected from Missouri residents divided by the total entry fees collected from all players, regardless of the players' location, of the fantasy sports contests.

*AUTHORITY: sections 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**.*