

Committee of Conference Report on HB 580-FN-A, regulating online fantasy sports contests.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; Exemption of Fantasy Sports Contests. Amend RSA 647:2, V by inserting after subparagraph (c) the following new subparagraph:

(d) The conduct of fantasy sports contests. For purposes of this section, the term "fantasy sports contest" means a fantasy or simulated game or contest, with or without an entry fee, in which one or more players compete against each other and winning outcomes reflect the relative knowledge and skill of the players and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.

2 New Section; Fantasy Sports Contests; Exempt. Amend RSA 338 by inserting after section 4 the following new section:

338:5 Fantasy Sports Contests Exempt. This chapter shall not apply to fantasy sports contests. For purposes of this chapter, the term "fantasy sports contest" means a fantasy or simulated game or contest, with or without an entry fee, in which one or more players compete against each other and winning outcomes reflect the relative knowledge and skill of the players and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.

3 New Chapter; Fantasy Sports Contests. Amend RSA by inserting after chapter 287-G the following new chapter:

CHAPTER 287-H

FANTASY SPORTS CONTESTS

287-H:1 Definitions. In this chapter:

I. "Beginner" means a fantasy sports contest player who has entered fewer than 51 contests offered by a single fantasy sports contest operator and who does not otherwise meet the definition of highly-experienced player.

II. "Commission" means the New Hampshire lottery commission.

III. "Entry fee" means cash or cash equivalent that is required to be paid by a fantasy

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sports contest player to a fantasy sports contest operator to participate in a fantasy sports contest.

IV. "Fantasy sports contest" means a fantasy or simulated game or contest in which one or more players compete against each other and winning outcomes reflect the relative knowledge and skill of the players and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.

V. "Fantasy sports contest operator" means a person that offers fantasy sports contests with an entry fee for a cash prize to the general public.

VI. "Fantasy sports contest player" means a person who participates in a fantasy sports contest offered by a fantasy sports contest operator.

VII.(a) "Highly experienced player" means a person who has either:

(1) Entered more than 1,000 fantasy contests offered by a single fantasy sports contest operator; or

(2) Won more than 3 fantasy sports contest prizes valued at \$1,000 or more from a single fantasy sports contest operator.

(b) Upon making a determination that a player is a highly experienced player, the fantasy sports contest operator shall continue to classify the player as a highly experienced player indefinitely.

VIII. "Script" means a list of commands that a computer program can execute to automate processes with respect to a fantasy sports contest.

287-H:2 Registration with the Commission.

I. No fantasy sports contest operator shall offer any fantasy sports contests with an entry fee in this state without first being registered with the commission. However, a fantasy sports contest operator that offered fantasy sports contests in this state prior to the effective date of this chapter may continue to offer fantasy sports contests with an entry fee in this state, provided such operator files an application for registration with the commission within 60 days of the application's availability, and may continue to offer fantasy sports contests until such application for registration has been approved or denied.

II. Before obtaining a registration to offer fantasy sports contests in this state, a fantasy sports contest operator shall be authorized to transact business in this state.

III. An application for registration pursuant to this section shall include the following information:

(a) The name of the applicant;

(b) The location of the applicant's principal place of business;

(c) The place where and the date when the applicant was legally established and the form of its organization;

(d) The names and addresses of all principal salaried executive officers;

(e) The name and address of any shareholder holding 5 percent or more of the equity

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interests of the applicant;

(f) The applicant's criminal record, if any, or, if the applicant is a business entity, the criminal records, if any, of all principal salaried executive officers; and

(g) Information sufficient to show that the applicant is in good standing with the department of revenue administration.

VI. The commission shall adopt rules under RSA 541-A implementing the provisions of this chapter, which shall include the adoption of an application form for registration. The commission shall not adopt rules limiting the digital platforms offered by registered fantasy sports contest operators, or the type or structure of fantasy sports contests offered by registered fantasy sports contest operators, to the extent that such fantasy sports contests are otherwise offered in a manner consistent with this chapter.

287-H:3 Consumer Protection.

I. As a condition of registration, a fantasy sports contest operator shall submit evidence satisfactory to the commission that the operator has established and shall implement commercially reasonable procedures for fantasy sports contests with an entry fee that:

(a) Prevent employees of the fantasy sports contest operator, and relatives living in the same household as such employees, from competing in any fantasy sports contest offered by any fantasy sports contest operator in which the operator offers a prize to the general public;

(b) Prevent sharing of confidential information that could affect such fantasy sports contest play with third parties until the information is made publicly available;

(c) Prevent the fantasy sports contest operator from participating in such fantasy sports contest he or she offers;

(d) Provide that no winning outcome is based on the score, point spread, or any performance of any single actual sports team or combination of such teams or solely on any single performance of an individual athlete or participant in any single actual sporting event;

(e) Prohibit the following persons from participating in any fantasy sports contest:

(1) Athletes and individuals who participate or officiate in a game or competition that is the subject of the fantasy sports contest;

(2) Any sports agent, team employee, referee, or league official associated with a sport or athletic event that is the subject of the fantasy sports contest.

(f) Verify that a fantasy sports contest player in such a fantasy sports contest is 18 years of age or older;

(g) Provide fantasy sports contest players with access to information on responsible play;

(h) Provide fantasy sports contest players with access to information on seeking assistance for compulsive behavior;

(i) Provide fantasy sports contest players with access to the fantasy sports contest

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player's play history and account details;

(j) Allow individuals to restrict themselves from entering such a fantasy sports contest upon request and provide reasonable steps to prevent the person from entering such fantasy sports contests offered by the fantasy sports contest operator;

(k) Disclose the number of entries that a fantasy sports contest player may submit to each such fantasy sports contest and provide reasonable steps to prevent players from submitting more than the allowable number; and

(l) Take reasonable steps to not advertise or run promotional activities at elementary or secondary schools or on college campuses.

II. The information required to be submitted pursuant to paragraph I or paragraph IV shall be exempt from disclosure pursuant to RSA 91-A:5, IV.

III. A fantasy sports contest operator shall not offer fantasy sports contests based on the performances of participants in collegiate, high school, or youth athletic events.

IV. A fantasy sports contest operator offering fantasy sports contests with an entry fee in this state shall contract with a third party to annually perform an independent audit to confirm compliance with the standards established by the American Institute of Certified Public Accountants, and submit the results of such audit to the commission;

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

VI. A fantasy sports contest operator offering fantasy sports contests with an entry fee in this state shall not target minors or individuals who have requested a restriction.

VII. A fantasy sports contest operator offering fantasy sports contests with an entry fee in this state shall:

(a) Prohibit the use of scripts in fantasy sports contests that give any fantasy sports contest player an unfair advantage over other fantasy sports contest players;

(b) Monitor fantasy sports contests to detect the use of unauthorized scripts and restrict fantasy sports contest players found to have used such scripts from participation in further fantasy sports contests;

(c) Make all authorized scripts readily available to all fantasy sports contest players; provided, that a licensed operator shall clearly and conspicuously publish its rules on what types of scripts may be authorized in a fantasy sports contest.

VIII. Funds in fantasy sports contest operator consumer accounts shall be:

(a) Held in trust for the consumer in a segregated account, in which case the fantasy sports contest operator shall segregate fantasy sports contest player funds from operational funds or maintain a reserve that exceeds the amount of player funds on deposit, which reserve shall not be used for operational activities. These reserve funds may take the form of cash, cash equivalents,

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147 payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond,
148 or a combination thereof, in the amount that shall exceed the total balances of the fantasy sports
149 contest players' accounts; or

150 (b) Held in a special purpose account that is maintained and controlled by a properly
151 constituted corporate entity that is not the fantasy sports contest operator and whose governing
152 board includes one or more corporate directors who are independent of the fantasy sports contest
153 operator and of any corporation related to or controlled by the fantasy sports contest operator. Said
154 corporate entity shall require a unanimous vote of all corporate directors to file bankruptcy and
155 shall have articles of incorporation that prohibit commingling of funds with those of the fantasy
156 sports contest operator except as necessary to reconcile the accounts of fantasy sports contest
157 players with sums owed by those fantasy sports contest players to the fantasy sports contest
158 operator. Said special purpose corporate entity shall also be:

159 (1) Restricted from incurring debt other than to fantasy sports contest players
160 pursuant to the rules that govern their accounts with fantasy sports contest operators;

161 (2) Restricted from taking on obligations of the fantasy sports contest operator other
162 than obligations to fantasy sports contest players pursuant to the rules that govern their accounts
163 with fantasy sports contest operators; and

164 (3) Prohibited from dissolving, merging, or consolidating with another company,
165 other than a special purpose corporate entity established by another fantasy sports contest operator
166 that meets the requirements of this section, while there are unsatisfied obligations to fantasy sports
167 contest players.

168 IX. Fantasy sports contest operators shall clearly and conspicuously identify highly
169 experienced players in fantasy sports contests by a symbol attached to a player's username, or by
170 other easily visible means. Fantasy sports contest operators shall offer some fantasy sports contests
171 that are open exclusively to beginner players and that exclude highly experienced players.

172 287-H:4 Penalty. Any person who violates any provision of this chapter shall be subject to a
173 civil penalty of not more than \$1,000 for each violation, not to exceed \$5,000 for violations arising
174 out of the same transaction or occurrence, which shall accrue to the state and may be recovered in a
175 civil action brought by the commission.

176 4 Effective Date. This act shall take effect upon its passage.

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The signatures below attest to the authenticity of this Report on HB 580-FN-A, regulating online fantasy sports contests.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Sanborn, Dist. 9

Rep. Azarian, Rock. 8

Sen. Bradley, Dist. 3

Rep. Abrami, Rock. 19

Sen. Feltes, Dist. 15

Rep. Ohm, Hills. 36

Rep. Ames, Ches. 9

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AMENDED ANALYSIS

This bill allows participation in fantasy sports contests for money.

This bill also requires fantasy sports contest operators to register with the lottery commission.