



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4239/1
TJD:kjf

2017 SENATE BILL 436

October 9, 2017 - Introduced by Senators FEYEN and HANSEN, cosponsored by Representatives VORPAGEL, MASON, BROSTOFF, ANDERSON, KUGLITSCH, GENRICH, FIELDS, BERCEAU, TAUCHEN, GANNON and KRUG. Referred to Committee on Revenue, Financial Institutions and Rural Issues.

1 **AN ACT** *to amend* 945.01 (1) (b); and *to create* chapter 570 of the statutes;
2 **relating to:** registration of fantasy contest operators, requiring the exercise of
3 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires fantasy contest operators to register with the Department of Financial Institutions to operate in this state and imposes certain requirements on fantasy contest operators as specified in the bill. "Fantasy contest" is defined in the bill as being a fantasy or simulation game or contest in which one or more players compete against each other and a winning outcome reflects the relative knowledge and skill of fantasy contest players and is determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events. To obtain an initial registration, a fantasy contest operator must become authorized to transact business in this state, apply to DFI and submit evidence that the fantasy contest operator complies or will comply with requirements specified in the bill, and pay the initial registration fee. The fantasy contest operator must renew this registration annually.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 436**SECTION 1**

1 **SECTION 1.** Chapter 570 of the statutes is created to read:

2 **CHAPTER 570**

3 **FANTASY CONTESTS**

4 **570.01 Definitions.** In this chapter:

5 (1) "Confidential information" means information related to the playing of a
6 fantasy contest by a fantasy contest player that is obtained because of a person's
7 employment with or work as an agent for a fantasy contest operator.

8 (2) "Department" means the department of financial institutions.

9 (3) "Entry fee" means cash or cash equivalent that is required to be paid by a
10 fantasy contest player to a fantasy contest operator in order to participate in a
11 fantasy contest.

12 (4) "Fantasy contest" means a fantasy or simulation game or contest in which
13 one or more players compete against each other and a winning outcome reflects the
14 relative knowledge and skill of fantasy contest players and is determined
15 predominantly by accumulated statistical results of the performance of individuals,
16 including athletes in the case of sporting events.

17 (5) "Fantasy contest operator" means a person that offers to the general public
18 a fantasy contest with an entry fee for a cash prize.

19 (6) "Fantasy contest player" means a person who participates in a fantasy
20 contest offered by a fantasy contest operator.

21 (7) "Location percentage" means, for each fantasy contest, the percentage,
22 rounded to the nearest one-tenth of 1 percent, of the total entry fees collected from
23 fantasy contest players located in this state at the time of entry into a fantasy contest,
24 divided by the total entry fees collected from all players in fantasy contests
25 regardless of location.

SENATE BILL 436**SECTION 1**

1 (8) “Net revenue” means for each fantasy contest, the amount equal to the total
2 entry fees collected from all participants entering fantasy sports contests less the
3 winnings paid to fantasy contest players in the fantasy contests with that result
4 multiplied by the location percentage.

5 **570.05 Fantasy contest operator registration. (1) REGISTRATION REQUIRED.**
6 No fantasy contest operator may offer fantasy contests in this state without first
7 registering with the department.

8 (2) INITIAL REGISTRATION APPLICATION. (a) In order to obtain initial registration
9 from the department, a fantasy contest operator shall do all of the following:

- 10 1. Become authorized to transact business in this state.
- 11 2. Apply to the department on forms required by and in the manner authorized
12 by the department.
- 13 3. Submit evidence that the fantasy contest operator complies or will comply
14 with s. 570.20.
- 15 4. Pay to the department the initial registration fee of 3 percent of the net
16 revenue earned by the fantasy contest operator in the previous year but not to exceed
17 \$10,000 or, if the fantasy contest operator did not earn net revenue in the previous
18 year, \$500.

19 (b) The department shall issue a registration to an applicant that complies with
20 this subsection and other requirements in this chapter. The department shall issue
21 to a fantasy contest operator a registration under this subsection within 60 days of
22 receipt of the application or shall provide justification to the fantasy contest operator
23 for denying the registration.

24 (3) RENEWAL REGISTRATION; OPERATION PENDING RENEWAL. (a) To continue
25 offering fantasy contests, a fantasy contest operator shall renew its registration

SENATE BILL 436**SECTION 1**

1 annually in the manner required by the department and shall pay an annual renewal
2 of registration fee of 3 percent of the net revenue earned by the fantasy contest
3 operator during the previous registration period. The department may not refund
4 any annual renewal registration fee.

5 (b) A fantasy contest operator that applies for renewal of registration may
6 continue to offer fantasy contests in this state while the renewal is pending unless
7 the department has reasonable cause to believe that the fantasy contest operator is
8 in violation of this chapter and requires the fantasy contest operator to suspend
9 fantasy contests until renewal is granted.

10 (c) The department shall require a fantasy contest operator that has allowed
11 its registration to lapse to resubmit an initial registration application under sub. (2),
12 unless the department grants a written request by the fantasy contest operator for
13 an extension to submit a renewal application.

14 (4) TRANSFER OF REGISTRATION. A fantasy contest operator may transfer
15 registration under this section upon a change in ownership. A fantasy contest
16 operator shall report to the department a change in ownership within 20 days of the
17 change.

18 **570.10 Departmental powers and duties. (1) REQUIRED RULE MAKING.**
19 Except as provided in sub. (2), the department shall promulgate rules to implement
20 this chapter, including rules to do all of the following:

21 (a) Administer this chapter.

22 (b) Protect the best interests of fantasy contest players and prevent practices
23 that are detrimental to the public interest.

24 (c) Allow for review of the registration applications for fantasy contest
25 operators.

SENATE BILL 436

1 (d) Impose penalties for noncriminal violations of this chapter.

2 **(2) PROHIBITED RULE MAKING.** The department may not promulgate rules to limit
3 or regulate any of the following:

4 (a) The fantasy contest operator's rules of the administration of the individual
5 fantasy contests.

6 (b) The statistical makeup of the contest.

7 (c) The digital platform used by a fantasy contest operator.

8 **570.20 Fantasy contest operator requirements. (1)** As a condition of
9 obtaining registration from the department, a fantasy contest operator shall
10 implement commercially reasonable procedures that are intended to do all of the
11 following:

12 (a) Prevent employees of or relatives living in the same household as an
13 employee of a fantasy contest operator from competing in a fantasy contest in which
14 the fantasy contest operator offers a cash prize to the general public.

15 (b) Prohibit the fantasy contest operator from participating in any fantasy
16 contest that he or she offers.

17 (c) Prevent the employees or agents of the fantasy contest operator from
18 sharing confidential information with 3rd parties that could affect fantasy contest
19 play until the information is made publicly available.

20 (d) Ensure that no winning outcome of a fantasy contest is based on the score,
21 point spread, or any performance of any single actual sports team or combination of
22 sports teams or solely on a single performance of an individual athlete or participant
23 in any single actual sporting event.

24 (e) Prohibit all of the following persons from participating in a fantasy contest:

SENATE BILL 436**SECTION 1**

1 1. Athletes or individuals who participate or officiate in a game or competition
2 that is the subject of a fantasy contest based on the sport or competition in which the
3 athletes or individuals participate or are otherwise associated.

4 2. Any sports agent, team employee, referee, or league official associated with
5 a sport or athletic event or competition on which a fantasy contest is based.

6 (f) Verify that a fantasy contest player is 18 years of age or older.

7 (g) Provide fantasy contest players with access to information on responsible
8 play.

9 (h) Provide fantasy contest players with access to information on seeking
10 assistance for compulsive behavior.

11 (i) Provide fantasy contest players with access to their play history and account
12 details.

13 (j) Upon request of an individual, allow the individual to restrict himself or
14 herself from entering a fantasy contest and provide reasonable steps to prevent the
15 individual from entering a fantasy contest offered by the fantasy contest operator.

16 (k) Disclose the number of entries that a fantasy contest player may submit to
17 each fantasy contest and provide reasonable steps to prevent players from
18 submitting more than the allowed number.

19 (L) Segregate fantasy contest player moneys from operational moneys or
20 maintain a reserve that is not used for operational activities and that exceeds the
21 amount of balances in fantasy contest players' aggregate accounts. A fantasy contest
22 operator may keep the reserve moneys in the form of cash, cash equivalents, payment
23 processor reserves, payment processor receivables, an irrevocable letter of credit, a
24 bond, or a combination of any of these forms.

SENATE BILL 436

1 (m) Refrain from offering a fantasy contest based on performances of
2 participants in collegiate, high school, or youth athletic events.

3 (n) Establish and make known all prizes and awards offered to winning fantasy
4 contest players in a fantasy contest in advance of the game or contest.

5 (2) (a) Except as provided in par. (b), a fantasy contest operator shall annually
6 contract with a 3rd party to perform an independent audit consistent with the
7 standards accepted by the American Institute of Certified Public Accountants to
8 confirm compliance with sub. (1) (L). The fantasy contest operator shall submit the
9 results of the independent audit to the department.

10 (b) A fantasy contest operator that has a net revenue of \$250,000 or less in a
11 calendar year is not required to comply with par. (a). The department, at its expense,
12 may perform an audit on a fantasy contest operator under this paragraph. If the
13 department's audit finds evidence of a violation of this section, the fantasy contest
14 operator shall reimburse the department for the reasonable cost of the audit.

15 (c) Information submitted by a fantasy contest operator or the results of an
16 audit conducted under this subsection are not subject to public inspection or copying
17 under s. 19.35 (1).

18 **570.30 Penalty.** A fantasy contest operator or an employee or agent of a
19 fantasy contest operator who knowingly violates this chapter is subject to a forfeiture
20 not to exceed \$1,000 for each violation and not to exceed \$10,000 cumulatively for
21 violations arising out of the same transaction.

22 **SECTION 2.** 945.01 (1) (b) of the statutes is amended to read:

23 945.01 (1) (b) Offers of purses, prizes or premiums to the actual contestants in
24 any bona fide contest for the determination of skill, speed, strength, or endurance or
25 to the bona fide owners of animals or vehicles entered in such contest, including a

SENATE BILL 436**SECTION 2**

1 fantasy contest under ch. 570, where chance is not the dominant factor controlling
2 the award of the purse, prize, or premium;

3 **SECTION 3. Nonstatutory provisions.**

4 (1) EXISTING FANTASY CONTEST OPERATORS. Notwithstanding section 570.05 (1)
5 of the statutes, a fantasy contest operator that offered fantasy contests to persons
6 located in this state on or before the effective date of this subsection may continue
7 to offer fantasy contests without registration to persons located in this state until 60
8 days after the date the department of financial institutions first allows members of
9 the public to apply for registration. A fantasy contest operator that applies for
10 registration during the 60-day period may continue to offer fantasy contests without
11 registration while the registration is pending and has not been denied. A fantasy
12 contest operator that has not applied for registration during the 60-day period shall
13 cease offering fantasy contests in this state at the expiration of the 60-day period.

14 (END)