

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1941

98TH GENERAL ASSEMBLY

5525H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 572.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session and section 572.010 as enacted by Referendum, Proposition A, November 3, 1992, and to enact in lieu thereof two new sections relating to gaming activities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 572.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session and section 572.010 as enacted by Referendum, Proposition A, November 3, 1992, are repealed and two new sections enacted in lieu thereof, to be known as sections 313.870 and 572.010, to read as follows:

313.870. 1. For the purposes of this section, the following terms shall mean:

(1) "Confidential information", information related to the play of a fantasy contest by fantasy contest players obtained as a result of or by virtue of a person's employment;

(2) "Entry fee", a cash or cash equivalent that is required to be paid by a fantasy contest player to a fantasy contest operator to participate in a fantasy contest;

(3) "Fantasy contest", a fantasy or simulated game as defined under subdivision (4) of section 572.010;

(4) "Fantasy contest operator", a person or entity that offers fantasy contests with an entry fee and for a cash prize to the general public;

(5) "Fantasy contest player" or "player", a person who participates in a fantasy contest offered by a fantasy contest operator.

2. A fantasy contest operator offering fantasy contests with an entry fee in this state shall register with the department of insurance, financial institutions and professional

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 registration. The initial registration fee is five thousand dollars and the annual renewal
15 is five thousand dollars, except that the fantasy contest operator's registration fee or
16 annual renewal fee shall not exceed ten percent of the amount of entry fees collected by the
17 fantasy contest operator from the operation of fantasy contests in this state less the amount
18 of cash prizes or cash prize equivalents paid to fantasy contest participants. In the event
19 the fantasy contest operator's registration fee or annual renewal does exceed such
20 percentage, the fantasy contest operator may apply to the department for a refund in the
21 amount of overpayment at the conclusion of the registration period as determined by the
22 department of insurance, financial institutions and professional registration.

23 3. The registration shall be valid upon receipt of a registration application and
24 payment of the registration fee.

25 4. A fantasy contest operator shall implement procedures for fantasy contests with
26 an entry fee that are intended to:

27 (1) Prevent employees of the fantasy contest operator, and relatives living in the
28 same household as such employees, from competing in any such public fantasy contests
29 offered by any fantasy contest operator in which the operator offers a cash prize;

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

32 (3) Prevent the fantasy contest operator from participating in such fantasy contest
33 he or she offers;

34 (4) Verify that a fantasy contest player in such a fantasy contest is eighteen years
35 of age or older;

36 (5) Ensure that individuals who participate or officiate in a game or contest that
37 is the subject of such a fantasy contest will be restricted from entering such a fantasy
38 contest that is determined, in whole or in part, on the accumulated statistical results of a
39 team of individuals in a game or contest in which he or she is a player;

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

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

46 (8) Segregate fantasy contest player funds from operational funds and maintain a
47 reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a
48 combination thereof, in the amount of the deposits made to the accounts of fantasy contest
49 players for the benefit and protection of the funds held in such accounts.

50 **5. A fantasy contest operator offering fantasy contests with an entry fee in this state**
51 **shall contract with a third party to annually perform an independent audit, consistent with**
52 **the standards established by the Public Company Accounting Oversight Board, to ensure**
53 **compliance with this section and submit the results of such audit to the department.**

54 **6. A person, firm, corporation, association, agent, or employee who violates this**
55 **section is subject to a civil penalty of not more than one thousand dollars for each violation,**
56 **which shall accrue to the state and may be recovered in a civil action brought by the**
57 **department.**

58 **7. Fantasy contests, as defined in subdivision (4) of section 572.010, are exempt**
59 **from chapter 313 and all other provisions of chapter 572.**

60 **8. Fantasy contests as defined in subdivision (4) of section 572.010, are authorized**
61 **and may be conducted on an excursion gambling boat or adjacent property to the**
62 **excursion gambling boat operated by entities licensed under to section 313.807.**

63 **9. The department of insurance, financial institutions and professional registration**
64 **shall promulgate rules to implement the provision of this section. Any rule or portion of**
65 **a rule, as that term is defined in section 536.010, that is created under the authority**
66 **delegated in this section shall become effective only if it complies with and is subject to all**
67 **of the provisions of chapter 536 and, if applicable, section 536.028. This section and**
68 **chapter 536 are nonseverable, and if any of the powers vested with the general assembly**
69 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
70 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**
71 **any rule proposed or adopted after August 28, 2016, shall be invalid and void.**

572.010. As used in this chapter the following terms mean:

2 (1) "Advance gambling activity", a person advances gambling activity if, acting other
3 than as a player, he or she engages in conduct that materially aids any form of gambling activity.
4 Conduct of this nature includes but is not limited to conduct directed toward the creation or
5 establishment of the particular game, lottery, contest, scheme, device or activity involved, toward
6 the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor,
7 toward the solicitation or inducement of persons to participate therein, toward the actual conduct
8 of the playing phases thereof, toward the arrangement or communication of any of its financial
9 or recording phases, or toward any other phase of its operation. A person advances gambling
10 activity if, having substantial proprietary control or other authoritative control over premises
11 being used with his or her knowledge for purposes of gambling activity, he or she permits that
12 activity to occur or continue or makes no effort to prevent its occurrence or continuation. The
13 supplying, servicing and operation of a licensed excursion gambling boat under sections 313.800

14 to 313.840 does not constitute advancing gambling activity. **The offering and operating of a**
15 **fantasy contest as defined in this section does not constitute advance gambling activity;**

16 (2) "Bookmaking", advancing gambling activity by unlawfully accepting bets from
17 members of the public as a business, rather than in a casual or personal fashion, upon the
18 outcomes of future contingent events;

19 (3) "Contest of chance", any contest, game, gaming scheme or gaming device in which
20 the outcome depends in a material degree upon an element of chance, notwithstanding that the
21 skill of the contestants may also be a factor therein;

22 (4) **"Fantasy contest", any fantasy or simulated game or contest, which may include**
23 **payment of an entry fee, in which:**

24 (a) **Winning participants are eligible to receive cash or anything else of value;**

25 (b) **The value of all prizes and awards offered to winning participants are**
26 **established and made known to the participants in advance of the contest;**

27 (c) **All winning outcomes reflect the relative knowledge and skill of the participants**
28 **and shall be determined predominantly by accumulated statistical results of the**
29 **performance of individuals, including athletes in the case of sports events; and**

30 (d) **No winning outcome is based on the score, point spread, or any performance**
31 **or performances of any single actual team or combination of such teams or solely on any**
32 **single performance of an individual athlete or player in any single actual event;**

33 (5) "Gambling", a person engages in gambling when he or she stakes or risks something
34 of value upon the outcome of a contest of chance or a future contingent event not under his or
35 her control or influence, upon an agreement or understanding that he or she will receive
36 something of value in the event of a certain outcome. Gambling does not include bona fide
37 business transactions valid under the law of contracts, including but not limited to contracts for
38 the purchase or sale at a future date of securities or commodities, and agreements to compensate
39 for loss caused by the happening of chance, including but not limited to contracts of indemnity
40 or guaranty and life, health or accident insurance; nor does gambling include playing an
41 amusement device that confers only an immediate right of replay not exchangeable for something
42 of value. Gambling does not include any licensed activity, or persons participating in such
43 games which are covered by sections 313.800 to 313.840. **Gambling does not include**
44 **participating in a fantasy contest as defined in this section;**

45 [(5)] (6) "Gambling device", any device, machine, paraphernalia or equipment that is
46 used or usable in the playing phases of any gambling activity, whether that activity consists of
47 gambling between persons or gambling by a person with a machine. However, lottery tickets,
48 policy slips and other items used in the playing phases of lottery and policy schemes are not
49 gambling devices within this definition;

50 [(6)] (7) "Gambling record", any article, instrument, record, receipt, ticket, certificate,
51 token, slip or notation used or intended to be used in connection with unlawful gambling activity;

52 [(7)] (8) "Lottery" or "policy", an unlawful gambling scheme in which for a consideration
53 the participants are given an opportunity to win something of value, the award of which is
54 determined by chance;

55 [(8)] (9) "Player", a person who engages in any form of gambling solely as a contestant
56 or bettor, without receiving or becoming entitled to receive any profit therefrom other than
57 personal gambling winnings, and without otherwise rendering any material assistance to the
58 establishment, conduct or operation of the particular gambling activity. A person who gambles
59 at a social game of chance on equal terms with the other participants therein does not otherwise
60 render material assistance to the establishment, conduct or operation thereof by performing,
61 without fee or remuneration, acts directed toward the arrangement or facilitation of the game,
62 such as inviting persons to play, permitting the use of premises therefor and supplying cards or
63 other equipment used therein. A person who engages in "bookmaking" as defined in subdivision
64 (2) of this section is not a player;

65 [(9)] (10) "Professional player", a player who engages in gambling for a livelihood or
66 who has derived at least twenty percent of his or her income in any one year within the past five
67 years from acting solely as a player;

68 [(10)] (11) "Profit from gambling activity", a person profits from gambling activity if,
69 other than as a player, he or she accepts or receives money or other property pursuant to an
70 agreement or understanding with any person whereby he participates or is to participate in the
71 proceeds of gambling activity;

72 [(11)] (12) "Slot machine", a gambling device that as a result of the insertion of a coin
73 or other object operates, either completely automatically or with the aid of some physical act by
74 the player, in such a manner that, depending upon elements of chance, it may eject something
75 of value. A device so constructed or readily adaptable or convertible to such use is no less a slot
76 machine because it is not in working order or because some mechanical act of manipulation or
77 repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot
78 machine because apart from its use or adaptability as such it may also sell or deliver something
79 of value on a basis other than chance;

80 [(12)] (13) "Something of value", any money or property, any token, object or article
81 exchangeable for money or property, or any form of credit or promise directly or indirectly
82 contemplating transfer of money or property or of any interest therein or involving extension of
83 a service, entertainment or a privilege of playing at a game or scheme without charge;

84 [(13)] (14) "Unlawful", not specifically authorized by law.

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3 than as a player, he engages in conduct that materially aids any form of gambling activity.
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5 establishment of the particular game, lottery, contest, scheme, device or activity involved, toward
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15 contest as defined in this section does not constitute advance gambling activity;**

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17 from members of the public as a business, rather than in a casual or personal fashion, upon the
18 outcomes of future contingent events;

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20 which the outcome depends in a material degree upon an element of chance, notwithstanding that
21 the skill of the contestants may also be a factor therein;

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80 deliver something of value on a basis other than chance;

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83 contemplating transfer of money or property or of any interest therein or involving extension of
84 a service, entertainment or a privilege of playing at a game or scheme without charge;

85 [(13)] **(14)** "Unlawful" means not specifically authorized by law.

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