

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 339

AN ACT to amend the Indiana Code concerning trade regulation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-31-2-20.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]: **Sec. 20.6. "Simulcast" means the communication by electronic device of a race at a recognized meeting and information related to the race, including:**

- (1) a personal computer or other device which enables communication over the Internet;**
- (2) a private network;**
- (3) an interactive video display or television;**
- (4) a wireless communication technology; or**
- (5) an interactive computer service (as defined in IC 35-45-5-1(g)).**

SECTION 2. IC 4-33-24 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2016]:

Chapter 24. Paid Fantasy Sports

Sec. 1. A paid fantasy sports game conducted under this chapter does not constitute gambling for any purpose, including under IC 35-45-5.

Sec. 2. "Bureau" refers to the child support bureau of the department of child services established by IC 31-25-3-1.

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Sec. 3. As used in this chapter, "confidential information" means information related to the play of paid fantasy sports games by game participants obtained solely as a result of or by virtue of a person's employment.

Sec. 4. As used in this chapter, "division" refers to the paid fantasy sports division established by section 11 of this chapter.

Sec. 5. As used in this chapter, "game operator" means a person who:

- (1) is engaged in the business of professionally conducting paid fantasy sports games for cash prizes for members of the general public; and
- (2) requires cash or a cash equivalent as an entry fee to be paid by a member of the general public who participates in a paid fantasy sports game.

Sec. 6. As used in this chapter, "game participant" means an individual who participates in a paid fantasy sports game offered by a game operator.

Sec. 7. As used in this chapter, "licensed facility" means any of the following:

- (1) A satellite facility licensed under IC 4-31-5.5.
- (2) A riverboat (as defined by IC 4-33-2-17).
- (3) A gambling game facility operated under IC 4-35.

Sec. 8. As used in this chapter, "licensee" means any of the following:

- (1) A permit holder (as defined by IC 4-31-2-14).
- (2) A licensed owner (as defined by IC 4-33-2-13).
- (3) An operating agent (as defined by IC 4-33-2-14.5).

Sec. 9. As used in this chapter, "paid fantasy sports game" means any fantasy or simulation sports game or contest that meets the following conditions:

- (1) The values of all prizes and awards offered to winning game participants are established and made known to the game participants in advance of the game or contest.
- (2) All winning outcomes reflect the relative knowledge and skill of the game participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.
- (3) No winning outcome is based on the score, point spread, or performance or performances of any single team or combination of teams, or solely on any single performance of an individual athlete or player in any single event.



(4) The statistical results of the performance of individuals under subdivision (2) are not based on college or high school sports.

(5) All participants must pay, with cash or a cash equivalent, an entry fee to participate.

(6) Unless authorized by the horse racing commission, established by IC 4-31-3-1, no winning outcome is based on the accumulated statistical results of a performance by an individual or horse:

(A) in a race or races at a recognized meeting (as defined in IC 4-31-2-20); or

(B) on the simulcast, as defined in IC 4-31-2-20.6, of a horse race or horse races.

Sec. 10. As used in this chapter, "person" means any association, corporation, limited liability company, fiduciary, individual, joint stock company, joint venture, partnership, sole proprietorship, or other private legal entity.

Sec. 11. (a) The paid fantasy sports division is established within the commission.

(b) The division shall maintain the integrity of the paid fantasy sports division. Game operators, game operator applicants, and licensees must encourage confidence in the commission and the division by maintaining high standards of honesty, integrity, and impartiality.

Sec. 12. (a) Except as provided in subsection (c), the division has the following powers and duties for purposes of administering, regulating, and enforcing the system of paid fantasy sports under this chapter:

(1) All powers and duties in this chapter.

(2) All powers necessary and proper to fully and effectively execute this chapter.

(3) To investigate and reinvestigate applicants, game operators, and licensees with whom a game operator has entered into a contract under section 14 of this chapter.

(4) To investigate alleged violations of this chapter.

(5) To revoke, suspend, or renew licenses under this chapter.

(6) To take any reasonable or appropriate action to enforce this chapter.

(b) Except as provided in subsection (c), the division may do the following:

(1) Take appropriate administrative enforcement or disciplinary action against a person who violates this chapter.



- (2) Conduct hearings.**
- (3) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other relevant documents.**
- (4) Administer oaths and affirmations to witnesses.**
- (c) The division may not adopt rules limiting or regulating:**
 - (1) rules or the administration of an individual game or contest;**
 - (2) the statistical makeup of a game or contest; and**
 - (3) the digital platform of a game operator.**

Sec. 13. (a) The division shall adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this chapter, including rules for the following purposes:

- (1) Administering this chapter.**
 - (2) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of paid fantasy sports.**
 - (3) Establishing rules concerning the review of the permits or licenses necessary for a game operator, licensed facility, or licensee.**
 - (4) Imposing penalties for noncriminal violations of this chapter.**
- (b) The division and the commission shall allow game operators who are operating in Indiana on March 31, 2016, to continue operating until they have received or have been denied a license.**

Sec. 14. A game operator may:

- (1) conduct one (1) or more paid fantasy sports games through an Internet web site maintained and operated by the game operator; or**
- (2) contract with a licensee to conduct one (1) or more paid fantasy sports games on the premises of a licensed facility.**

Sec. 15. (a) A game operator must:

- (1) be authorized to transact business in Indiana under IC 23; and**
- (2) pay to the division the initial fee imposed under subsection (b).**

(b) A game operator shall pay to the division an initial fee of at least fifty thousand dollars (\$50,000) for the privilege of conducting paid fantasy sports games under this chapter. The division may increase the initial fee up to seventy-five thousand dollars (\$75,000) to pay for all of the direct and indirect costs of the operation of the division.



(c) A game operator shall annually pay to the division a five thousand dollar (\$5,000) fee on the anniversary date of the payment made under subsection (b) to renew the privilege of conducting paid fantasy sports games under this chapter.

(d) The division shall deposit all fees received under this section in the fantasy sports regulation and administration fund.

Sec. 16. A game operator must do the following to conduct paid fantasy sports games under this chapter:

(1) Provide written notice to the division of the game operator's intent to conduct paid fantasy sports games under this chapter.

(2) Submit for the division's approval any proposed contract with a licensee through which the game operator intends to conduct paid fantasy sports games under this chapter.

(3) Submit a plan for doing the following:

(A) Verifying the identity and age of patrons who wish to participate in a paid fantasy sports game conducted under this chapter.

(B) Maintaining the security of the identifying and financial information of game participants participating in paid fantasy sports games conducted under this chapter.

(C) Promoting paid fantasy sports games conducted under this chapter in a manner that accurately describes the relationship between the game operator and a licensee.

Sec. 17. (a) A licensee's license may be renewed annually upon a determination by the division that the licensee is in compliance with this chapter.

(b) A licensee shall undergo a complete investigation every three (3) years to determine if the licensee is in compliance with this chapter.

(c) A licensee shall bear the cost of an investigation or reinvestigation of the licensee and any investigation resulting from a potential transfer of ownership.

Sec. 18. A game operator may charge an entry fee to participate in a paid fantasy sports game conducted under this chapter.

Sec. 19. An individual must be at least eighteen (18) years of age to participate in a paid fantasy sports game conducted under this chapter.

Sec. 20. Any prize awarded in a paid fantasy sports game must be made known before the fantasy game begins. The value of a prize awarded in the paid fantasy sports game may not be determined by the number of game participants in the paid fantasy



sports game or the amount of entry fees paid by the game participants.

Sec. 21. A game operator shall implement procedures to do the following:

- (1) Prevent employees of the game operator or a licensee with whom the game operator has entered into a contract under section 14 of this chapter, and any relative of an employee living in the household of the employee, from competing in a paid fantasy sports game in which the cash prize exceeds five dollars (\$5).
- (2) Prevent an owner, director, or officer of the game operator or a licensee with whom the game operator has entered into a contract under section 14 of this chapter from being a game participant in any paid fantasy sports game offered by the game operator.
- (3) Prevent employees of the game operator or a licensee with whom the game operator has entered into a contract under section 14 of this chapter from sharing confidential information that could affect paid fantasy sports game play with third parties until the information is made publicly available.
- (4) Verify that a game participant is at least eighteen (18) years of age.
- (5) Prevent an individual who is a player, game official, or other participant in an actual sporting event or competition from participating in any paid fantasy sports game that is determined in whole or in part on the performance of that individual, the individual's actual team, or the accumulated statistical results of the sporting event or competition in which the individual is a player, game official, or other participant.
- (6) Allow individuals to restrict themselves from entering paid fantasy sports games.
- (7) Disclose the number of paid fantasy sports games a single game participant may enter.

Sec. 22. A game operator shall take reasonable steps to do the following:

- (1) Prevent the participation in paid fantasy sports games of individuals who have restricted themselves from entering paid fantasy sports games.
- (2) Prevent game participants from entering more than the maximum number of allowed paid fantasy sports games.

Sec. 23. A game operator shall segregate the funds of game



participants from the operational funds of the game operator.

Sec. 24. For the protection of the funds of game participants held in paid fantasy sports game accounts, a game operator shall maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination of these sources that is equal to the amount of money deposited in paid fantasy sports game accounts of game participants.

Sec. 25. A game operator shall contract annually with a certified public accountant to perform a financial audit of the game operator's paid fantasy sports game operations under this chapter to ensure compliance with this chapter. The game operator shall submit the results of the audit to the division. The same certified public accountant may not perform more than two (2) consecutive financial audits for a game operator under this section.

Sec. 26. The division may impose a civil penalty upon a game operator, a licensee, or an employee of a game operator or a licensee for a violation of this chapter. The maximum amount of a civil penalty imposed under this section for a particular violation is one thousand dollars (\$1,000). The division shall deposit all civil penalties received under this section in the fantasy sports regulation and administration fund.

Sec. 27. Entry fees and other revenues received by a licensee under a contract with a game operator for conducting paid fantasy sports games are not considered to be received from a licensee's gaming operations and are not subject to:

- (1) a wagering tax imposed under IC 4-33-13 or IC 4-35-8;
- (2) the fee imposed under IC 4-35-8.5;
- (3) the distribution required under IC 4-35-7-12; or
- (4) any other tax or fee imposed upon a licensee under IC 4-31, IC 4-33, or IC 4-35.

Sec. 28. (a) The fantasy sports regulation and administration fund is established to provide for the administration of this chapter.

(b) The fund consists of:

- (1) any fees and civil penalties deposited in the fund under this chapter;
- (2) any money appropriated to the fund by the general assembly; and
- (3) any earnings on amounts in the fund.

(c) The commission shall administer the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same



manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

Sec. 29. (a) This section applies beginning July 1, 2017.

(b) The bureau shall provide information to a game operator or licensee concerning persons who are delinquent in child support.

(c) If a permit holder or trustee is required to file Form 1099 or a substantially equivalent form with the United States Internal Revenue Service for a person who is delinquent in child support, before payment of cash winnings from paid fantasy sports, the game operator or licensee permit holder or trustee:

(1) may deduct and retain an administrative fee in the amount of the lesser of:

(A) three percent (3%) of the amount of delinquent child support withheld under subdivision (2)(A); or

(B) one hundred dollars (\$100); and

(2) shall:

(A) make a reasonable effort to withhold the amount of delinquent child support owed from the cash winnings;

(B) transmit to the bureau:

(i) the amount withheld for delinquent child support; and

(ii) identifying information, including the full name, address, and Social Security number of the obligor and the child support case identifier, the date and amount of the payment, and the name and location of the permit holder or trustee; and

(C) issue the obligor a receipt in a form prescribed by the bureau with the total amount withheld for delinquent child support and the administrative fee.

(d) The bureau shall notify the obligor at the address provided by the permit holder or trustee that the bureau intends to offset the obligor's delinquent child support with the cash winnings.

(e) The bureau shall hold the amount withheld from cash winnings of the obligor for ten (10) business days before applying the amount as payment to the obligor's delinquent child support.

(f) The delinquent child support required to be withheld under this section and an administrative fee described under subsection (c)(1) have priority over any secured or unsecured claim on cash winnings except claims for federal or state taxes that are required to be withheld under federal or state law.



Sec. 30. A game operator may not:

- (1) advertise a paid fantasy sports contest in any publication or medium that is aimed exclusively to juveniles; or**
 - (2) advertise a paid fantasy sports contest or run promotional activities concerning a paid fantasy sports contest at:**
 - (A) elementary schools, as defined by IC 20-18-2-4;**
 - (B) high schools, as defined by IC 20-18-2-7; or**
 - (C) sports venues used exclusively for:**
 - (i) elementary school, as defined by IC 20-18-2-4; or**
 - (ii) high school, as defined by IC 20-18-2-7;**
- student sports activities.**

SECTION 3. IC 31-25-4-8.5, AS ADDED BY P.L.80-2010, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8.5. In addition to the duties imposed by sections 7 and 8 of this chapter, the bureau shall do the following:

- (1) Share data regarding obligors who are delinquent with:
 - (A) a licensed owner, operating agent, and trustee in accordance with IC 4-33-4-27;
 - (B) a permit holder and trustee in accordance with IC 4-35-4-16; ~~and~~
 - (C) the state lottery commission; **and**
 - (D) a game operator or licensee in accordance with IC 4-33-24-29;**

to allow for the interception of cash winnings and prizes from the obligors.

- (2) Distribute money collected from the persons described in subdivision (1) according to federal child support laws and regulations.

SECTION 4. [EFFECTIVE JULY 1, 2016] **(a) Money in the fantasy sports regulation and administration fund established by IC 4-33-24-28 is appropriated for the state fiscal year beginning July 1, 2016, and ending June 30, 2017, for the use by the Indiana gaming commission in administering IC 4-33-24.**

(b) This SECTION expires June 30, 2017.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "legislative council" refers to the legislative council created by IC 2-5-1.1-1.**

(b) As used in this SECTION, "study committee" means either of the following:

- (1) A statutory committee established under IC 2-5.**
- (2) An interim study committee.**
- (c) The legislative council is urged to assign to the appropriate**



study committee the topics of:

- (1) the regulation of paid fantasy sports;**
- (2) the taxation of paid fantasy sports; and**
- (3) the interception of past due taxes and child support owed by paid fantasy sports game players.**

(d) If the topics described in subsection (c) are assigned to a study committee, the study committee shall issue a final report on the topics to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2016.

(e) This SECTION expires December 31, 2016.

SECTION 6. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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