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NEW JERSEY ADMINISTRATIVE CODE
TITLE 13
LAW AND PUBLIC SAFETY
CHAPTER 45A
SUBCHAPTER 36
FANTASY SPORTS OPERATORS

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SUBCHAPTER 36. FANTASY SPORTS OPERATORS

13:45A-36.1 PURPOSE AND SCOPE

The purpose of this subchapter is to implement the provisions of P.L. 2017, c. 231 (N.J.S.A. 5:20-1 et seq.), which regulate fantasy sports operators.

13:45A-36.2 WORDS AND PHRASES DEFINED

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Applicant" means an individual or entity that applies for a permit to conduct fantasy sports activities.

"Casino" means a single room in which casino gaming is located pursuant to the provisions of the New Jersey Casino Control Act (P.L. 1977, c. 110).

"Division" means the Division of Consumer Affairs.

"Entry fee" means cash or a cash equivalent that is paid by a participant to a fantasy sports operator to participate in a fantasy sports activity offered by that operator, but shall not include a fee paid to an operator that does not offer a prize.

"Fantasy sports activity" means any fantasy or simulated activity or contest with an entry fee in which a participant owns or manages an imaginary team and competes against other participants or a target score for a predetermined prize with the outcome reflecting the relative skill of the participants and determined by statistics generated based on performance by actual individuals participating in actual competitions or athletic events, provided that the outcome shall not be based solely on the performance of an individual athlete, or on the score, point spread, or any performance of any single real team or combination of real teams. Fantasy sports activity shall not include any activity in which no entry fee is paid to the fantasy sports operator or in which a prize is not collected, managed, or awarded by the operator.

"Fantasy sports gross revenue" means, for each fantasy sports activity, the amount equal to the total of all entry fees that a fantasy sports operator collects from all participants less only the total of all money prizes paid out as prizes to all participants multiplied by the location percentage for this State.

"Fantasy sports operator" or "operator" means a business entity, including a casino licensee or the holder of a permit to conduct a horse race meeting, that has been issued a permit by the Division of Consumer Affairs in the Department of Law and Public Safety to offer persons the opportunity to participate in a fantasy sports activity.

"Location percentage" means, for each authorized fantasy sports activity, the percentage rounded to the nearest one-tenth of one percent (0.1 percent) of the total entry fees collected from players located in this State, divided by the total entry fees collected from all players in the fantasy sports activity.

"Participant" means any person who takes part in a fantasy sports activity offered by a fantasy sports operator in New Jersey.

"Prize" means anything of monetary value provided to a participant due to the outcome of a fantasy sports activity. "Prize" may include money, competition credits, merchandise, or admission to another competition; however, for purposes of calculating fantasy sports gross revenue, "prize" shall include only money paid to a participant and shall not include competition credits, merchandise, or admission to another competition.

"Prohibited participant" means an individual who has access to non-public confidential information about fantasy sports activities, any athlete whose performance may be used to determine the outcome of a fantasy sports activity in the sport with which the athlete is associated, any team employee, referee, or league official in a fantasy sports activity in the sport with which that person is associated, and any sports agent associated with any sport used for fantasy sports activities.

13:45A-36.3 PERMISSION TO PROVIDE FANTASY SPORTS ACTIVITIES FOR ENTITIES OPERATING PRIOR TO AUGUST 24, 2017

- a) A fantasy sports operator that was offering fantasy sports activities in New Jersey on August 24, 2017, shall be permitted to continue to provide fantasy sports activities until April 7, 2018.
- b) A fantasy sports operator that is permitted to provide fantasy sports activities pursuant to (a) above and that applies for a permit prior to April 7, 2018, shall be able continue to offer fantasy sports activities while its application is pending with the Division.
- c) A fantasy sports operator that does not qualify to offer fantasy sports pursuant to (a) above shall not provide, administer, manage, or otherwise make available fantasy sports activities until it has obtained a fantasy sports operator permit from the Division.

13:45A-36.4 APPLICATION FOR PERMIT

- a) An applicant for a fantasy sports operator permit shall submit to the Division:
 - 1) A completed application, on a form provided by the Division;
 - 2) Proof that the applicant maintains equipment pursuant to the requirements of N.J.A.C. 13:45A-36.5; and
 - 3) The application fee as set forth in N.J.A.C. 13:45A-36.17.

- b) If an application is approved by the Division, the applicant will be sent a permit activation form. Applicants shall submit a completed activation form and the permit fee as set forth in N.J.A.C. 13:45A-36.19 to the Division.

- c)

13:45A-36.5 EQUIPMENT USED TO CONDUCT FANTASY SPORTS ACTIVITIES

- a) If a fantasy sports operator is a casino, all of the equipment it uses to conduct fantasy sports activities shall be physically located within the boundaries of the municipality specified in section 20 of P.L. 2013, c. 27 (N.J.S.A. 5:12-95.22).

- b) If a fantasy sports operator is not a casino, at least one server used to conduct fantasy sports activities shall be physically located within the boundaries of the municipality specified in section 20 of P.L. 2013, c. 27 (N.J.S.A. 5:12-95.22).

- c) The Division shall have the authority to inspect the facilities of fantasy sports operators, including any servers maintained pursuant to (a) and (b) above.

13:45A-36.6 CONDUCT OF FANTASY SPORTS ACTIVITIES

- a) Fantasy sports operators shall conduct fantasy sports activities so that the outcome is determined by statistics generated based on the performance of actual individuals participating in real competitions or athletic events.

- b) The outcome of fantasy sports activities shall not be based solely on the performance of an individual athlete or on the score, point spread, or any performance of a single real team or combination of real teams.

- c) Prizes offered to participants shall be established and disclosed in advance to all participants. The value of a prize shall not be determined by the number of participants or the amount of entry fees paid by participants.

- d) A fantasy sports operator shall not make any false statement or fail to disclose any information requested by the Division.

13:45A-36.7 PROHIBITED PRACTICES

- a) (a) A fantasy sports operator shall not:
 - 1) Share statistical information with third parties that could affect a fantasy sports activity until that information is publicly available;
 - 2) Allow a prohibited participant to participate in fantasy sports activities;
 - 3) Provide any fantasy sports activities based on high school athletics; or
 - 4) Allow a participant under the age of 18 years to participate in fantasy sports activities.

13:45A-36.8 FAIRNESS OF FANTASY SPORTS ACTIVITY

- a) A fantasy sports operator, its employees, officers, and directors shall not disclose proprietary or non-public information that may affect fantasy sports activities to any participant.
- b) A fantasy sports operator shall not knowingly permit an athlete, sports agent, team employee, referee, or league official to provide proprietary or non-public information to any participant.
- c) A fantasy sports operator shall prevent the following from being participants in fantasy sports activities offered by the fantasy sports operator:
 - 1) Owners, directors, or officers of the fantasy sports operator; and
 - 2) Employees of the fantasy sports operator.

13:45A-36.9 ADMINISTRATION OF FANTASY SPORTS ACTIVITIES

- a) Fantasy sports operators shall adopt procedures to ensure that prohibited participants and participants under the age of 18 years do not participate in fantasy sports activities. A fantasy sports operator shall refund any money held in an account created by a participant under the age of 18.
- b) Fantasy sports operators shall offer individuals the ability to restrict themselves from participating in fantasy sports activities and take steps to prevent such individuals from participating in fantasy sports activities.

- c) Fantasy sports operators shall establish a limitation on the number of entries an individual participant may submit for each fantasy sports activity, shall disclose this number of entries, and shall take steps to prevent a participant from exceeding that number.
- d) Fantasy sports operators shall either segregate participants' funds from operational funds or maintain a reserve in cash, cash equivalents, payment processor reserves, receivables, an irrevocable letter of credit, a bond, or combination thereof, in the amount of the deposits in participant' accounts, which the fantasy sports operator has no interest in, or title to, and which is:
 - 1) At least equal to the sum of all funds held in participants' accounts and all prizes owed or which will be owed for fantasy sports activities;
 - 2) Protected from claims of the fantasy sports operator's creditors other than participants for whose benefit the reserve is established; and
 - 3) If the reserve is maintained in the form of cash, cash equivalent, or an irrevocable letter of credit, it must be held or issued by a Federally insured financial institution. Reserves in the form of cash or cash equivalent must be established pursuant to a written agreement between the fantasy sports operator and a financial institution or insurance carrier, but the fantasy sports operator may engage an intermediary company or agent to deal with the financial institution or insurance carrier, in which event the reserve may be established pursuant to written agreements between the fantasy sports operator and the intermediary, and the intermediary and the financial institution or insurance carrier.
- e) For the purposes of compliance with (d) above, fantasy sports operators may establish a special purpose segregated account that is maintained and controlled by a properly constituted corporate entity that is not the fantasy sports operator and whose governing board includes one or more corporate directors who are independent of the fantasy sports operator and of any corporation related to or controlled by the fantasy sports operator.

13:45A-36.10 ANNUAL AUDITS

- a) Fantasy sports operators shall contract with a licensed certified public accountant to perform a financial audit of the operator and submit the accountant's report to the Division annually, no later than the first day of the seventh month following the close of the fantasy sports operator's fiscal year.
- b) Along with the audit required by (a) above, fantasy sports operators shall provide an addendum prepared by a licensed certified public accountant that breaks down for each quarter:

- 1) Total entry fees for the fantasy sports operator;
- 2) Total prizes paid out by the fantasy sports operator;
- 3) Total entry fees paid by participants in New Jersey;
- 4) Amount in participant accounts for participants in New Jersey; and
- 5) If the fantasy sports operator maintains reserves in cash, cash equivalents, payment processor reserves and receivables, an irrevocable letter of credit, a bond, or a combination thereof, pursuant to N.J.A.C. 13:45A-36.9(e), a report on such reserves in cash, cash equivalents, payment processor reserves and receivables, an irrevocable letter of credit, a bond, or a combination thereof.

13:45A-36.11 OPERATIONS FEE

- a) Except as provided in (d) below, a fantasy sports operator shall pay to the Division, on a quarterly basis, an operations fee in an amount equal to 10.5 percent of fantasy sports gross revenue for each quarter. The operations fee will be deposited into the general fund of the State.
- b) Operation fees will be due on April 20, July 20, October 20, and January 20.
- c) Along with the operation fees, fantasy sports operators shall complete and submit the operation fee form provided by the Division.
- d) A fantasy sports operator who solely operates a season-long single-sport fantasy sports activity, may estimate its quarterly operations fee based upon its fantasy sports gross revenue from the previous year. Such a fantasy sports operator would pay a quarterly operations fee that would be equal to 10.5 percent of fantasy sports gross revenue from the previous year divided by four.
- e) A fantasy sports operator that seeks to pay an operations fee pursuant to (d) above shall notify the Division that it will be following the requirements of (d) above prior to payment of the operations fee.
- f) A fantasy sports operator that pays an operations fee pursuant to (d) above and whose estimated quarterly payments for the first three quarters are greater than or less than the amount the fantasy sports operator would have owed if the operations fee was calculated pursuant to (a) above, shall adjust the payment for the fourth quarter to reflect the over- or underpayment of the operations fee.

13:45A-36.12 REQUIRED POLICIES

- a) Fantasy sports operators shall establish policies that address:
- 1) Procedures to handle security incidents, including system failures, loss of service, breaches of confidentiality, and malicious intrusion. Such procedures shall address:
 - i) Analysis and cause of the security incident;
 - ii) Containment;
 - iii) Planning and implementation of corrective action to prevent recurrence;
 - iv) Communication with New Jersey participants affected by or involved with recovery from the security incident; and
 - v) Reporting of the action to the Division.
 - 2) Testing to ensure that the fantasy sports operator's platform meets or exceeds current industry standards;
 - 3) Instituting a process to close out participant accounts that have not been used to engage in fantasy sports activities for three years;
 - 4) Maintaining the security of identity and financial information of participants;
 - 5) Preventing the following from being a participant in fantasy sports activities offered by the fantasy sports operator:
 - i) Owners, directors, or officers of the fantasy sports operator; and
 - ii) Employees of the fantasy sports operator.
 - 6) Permitting parents or guardians to exclude individuals under the age of 18 from accessing any fantasy sports activity;
 - 7) Determining the true identity, date of birth, and address of each individual seeking to open an account;

- 8) Using measures to detect the physical location of a participant attempting to access his or her account and to monitor for simultaneous logins to a single account from geographically inconsistent locations. Such measures shall:
 - i) Check location each time the player attempts to enter a contest or make a deposit; and
 - ii) Utilize a mechanism to alert the fantasy sports operator if an account is being accessed from geographically inconsistent locations; and
- 9) Preventing advertisements in any publication or medium that is aimed exclusively at juveniles or advertising at any of the following:
 - i) Elementary schools;
 - ii) High schools; or
 - iii) Sports venues used exclusively for elementary school or high school student sports activities.

13:45A-36.13 PARTICIPANT COMPLAINT PROCEDURES

- a) Fantasy sports operators shall develop procedures by which participants may file a complaint about any aspect of a fantasy sports activity. Fantasy sports operators shall notify participants as to complaint procedures.
- b) Fantasy sports operators shall respond to participant complaints in writing within 10 business days of receipt of a complaint.
- c) If the response to a complaint required by (b) above is that more information is needed, the form and nature of the necessary information shall be specifically stated. When additional information is received, further response shall be required within seven business days.
- d) Any complaints received by a fantasy sports operator from a participant and the response to the complaint shall be retained for at least seven years and made available to the Division upon request.

13:45A-36.14 RECORDS

- a) Fantasy sports operators shall maintain records of:

- 1) Each fantasy sports activity offered, which shall include:
 - i) The date and time the fantasy sports activity started and ended;
 - ii) Prize structure used;
 - iii) Participants that entered the fantasy sports activity;
 - iv) Selections each game participant made for his or her team;
 - v) Total number of points earned by each participant's team;
 - vi) Total amount of entry fees paid;
 - vii) Results, including the points earned by the winning participant or participants;
 - viii) Total amount of participants' winnings; and
 - ix) Total amount of cash or cash equivalents awarded to participants.
- 2) A participant transaction log, which includes:
 - i) A unique participant identification;
 - ii) All deposits to the participant's account;
 - iii) All withdrawals by the participant; and
 - iv) All cash or cash equivalents added to the participant's account.
- 3) Participant account information, which includes:
 - i) A unique participant identification;
 - ii) Participant identity details, which include the participant's legal name, age, and address;
 - iii) Any self-restrictions;
 - iv) Any previous accounts; and
 - v) The date and location from which the participant account was registered.

- 4) All advertisements, including where such advertisements were placed. To the extent that an advertisement cannot be maintained in its original form, such as billboards, the advertising copy shall be retained.
- b) Fantasy sports operators shall maintain all records required by (a) above for a period of at least seven years.
- c) Fantasy sports operators shall provide records to the Division upon request.

13:45A-36.15 SINGLE ACCOUNT

- a) (A fantasy sports operator shall limit each participant to one active account and username.
- b) A fantasy sports operator shall establish procedures to terminate accounts of any participant that establishes or seeks to establish more than one username or more than one account.

13:45A-36.16 PROHIBITION ON EXTENSIONS OF CREDIT TO GAME PARTICIPANTS

A fantasy sports operator shall not extend credit to a participant for purposes of participating in a fantasy sports activity.

13:45A-36.17 PLAYER FUNDS

- a) A fantasy sports operator shall not allow a participant to transfer funds to any other participant.
- b) After a participant's identity has been verified, a participant shall be allowed to withdraw funds maintained in his or her account, whether such account is opened or closed. Such requests must be honored within five business days of the request. For purposes of this section, a request for withdrawal will be considered honored if it is processed by the fantasy sports operator, notwithstanding a delay by a payment processor, credit card issuer, or the custodian of a financial account.
- c) A fantasy sports operator shall not allow a participant's account to be overdrawn unless caused by payment processing issues outside of the control of the fantasy sports operator.

- d) A fantasy sports operator may decline to honor a request to withdraw funds if the fantasy sports operator believes in good faith that the participant engaged in either fraudulent conduct or conduct that would put the fantasy sports operator in violation of the law. In such cases, the fantasy sports operator shall:
- 1) Provide notice to the participant of the nature of the investigation of the account; and
 - 2) Conduct an investigation in a reasonable and expedient fashion, providing the participant additional written notice of the status of the investigation every 10th business day starting from the day the original notice was provided to the participant.

13:45A-36.18 RENEWAL OF PERMIT

- a) Fantasy sports operator permits shall be renewed annually.
- b) Fantasy sports operators shall submit a renewal form and the permit fee as set forth in N.J.A.C. 13:45A-36.19 to the Division 45 days prior to the expiration date of the permit.

13:45A-36.19 FEES

- a) The Division shall charge the following non-refundable fantasy sports operator permitting fees:
 - 1) Application fee \$ 500.00
 - 2) Permit fee:
 - i) For fantasy sports operator with fantasy sport gross revenue up to \$ 49,999 \$ 5,000
 - ii) For fantasy sports operator with fantasy sport gross revenue between \$ 50,000 to \$ 99,000 \$ 10,000
 - iii) For fantasy sports operator with fantasy sport gross revenue between \$ 100,000 to \$ 250,000 \$ 20,000
 - iv) For fantasy sports operator with fantasy sport gross revenue over \$ 250,000 \$ 50,000