

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB137

Hearing Date: Monday March 04, 2019
Committee On: General Affairs
Introducer: Blood
One Liner: Adopt the Fantasy Contests Act and provide a gambling exception

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	5	Senators Blood, Brandt, Hunt, Moser, Wayne
Nay:	2	Senators Arch, Briese
Absent:		
Present Not Voting:	1	Senator Lowe

Oral Testimony:

Proponents:

Carol Blood
Sean Ostrow

Representing:

Introducer
Fan Duel, Draft Kings, Fantasy Sports Trade Association

Opponents:

Pat Loontjer
Nate Graz

Representing:

Gambling With the Good Life
Nebraska Family Alliance

Neutral:

Representing:

Summary of purpose and/or changes:

LB137 amends 28-1101, 28-1105, and 28-113 to create the Fantasy Contests Act. The act codifies how Fantasy Contest companies will be regulated, imposes annual registration fees and registration requirements that offer consumer protections.

LB137 includes the following by section:

Section One of the Bill: Specifies that sections 1-7 of this act shall be known as the Fantasy Contests Act.

Section Two of the Bill: Defines terms for purposes of the Fantasy Contests Act.

Section Three of the Bill: Specifies that non fantasy contest operator shall offer any fantasy contest in Nebraska without first registering with the department, except that a fantasy contest operator may offer a fantasy contest in Nebraska during the period that the application for registration is pending before the department. An application for registration shall be on an electronic or paper form prescribed by the department. To be eligible to obtain a registration to offer a fantasy contest in Nebraska, a fantasy contest operator shall be authorized to transact business in Nebraska and pay a registration fee of ten thousand dollars to the department. Specifies that on or before each annual anniversary date of the original registration fee payment made a fantasy contest operator shall pay an annual registration renewal fee of six percent of the fantasy contest operators gross fantasy contest revenue for the preceding twelve months, not to exceed

ten thousand dollars, to the department. No refunds shall be allowed of any registration fees collected and any fantasy contest operator that allows a registration to lapse without request a time extension from the department to file an application shall be required to resubmit an initial registration application.

The department shall remit all registration and renewal fees collected under this section to the State Treasurer for credit to the General Fund.

Any fantasy contest operator offering a fantasy contest to residents of Nebraska prior to the effective date of this act may continue to offer such fantasy contest until sixty days after an application for registration is made available to the public by the department and if an application is completed may continue to operator while the registration is pending. A fantasy contest operator who has not registered shall cease operations within Nebraska by the expiration of the sixty day period.

Section Four of the Bill: Sets out the application process for the Fantasy Contests Act. Specifies that the department shall consider each application filed and shall issue a valid registration to any applicant who meets the criteria set forth in this act. The department shall deny registration to any applicant who does not meet such criteria.

Any fantasy contest operator applying for initial registration or renewal of a registration may operate during the period pending application approval unless the department has reasonable cause to believe that such operator is or may be in violations of this act and the department requires such operator to suspend operation of any fantasy contest until an application for initial registration or renewal is approved.

The department shall issue or deny a registration application within sixty days after receipt of the application. If the registration is not issued, the department shall provide the fantasy contest operator with the specific justification for not issuing such legislation. A pending application made under the Act shall not be considered a public record for purposes of section 84-712 to 84-712.09 until made public by the department pursuant to section three of this act.

Section Five of the Bill: Specifies that the department shall adopt and promulgate rules and regulations to implement and administer the Fantasy Contests Act. These rules and regulations shall include but are not limited to:

- Provide for the prevention of practices detrimental to the public interest and safeguard the integrity of fantasy contests; and

- Establish necessary scope of review of registration applications filed by the fantasy contest operators.

The department shall not adopt and promulgate rules and regulations limiting or regulating:

- Game rules governing the play of individual fantasy contest;

- The statistical components of a fantasy contest; or

- The digital platform of a fantasy contest operator.

Section Six of the Bill: Specifies that as a condition of registration, a fantasy contest operator shall submit evidence satisfactory to the department that the operator has established and implemented or has the ability to implement commercially reasonable procedures for fantasy contests that:

- Prevent a fantasy contest operator, any employee of the fantasy contest operator, and any relative living in the same household as such fantasy contest operator or employee from participating as a fantasy contest player in any fantasy contest offered by a fantasy contest operator;

- Prevent the sharing of confidential information with third parties that could affect fantasy contest play until the information is made publicly available

- Prohibit certain specified persons from participating in a fantasy contest based on the sport or competition in which the person participation or which the person is otherwise associated

- Verify that a fantasy contest player in a fantasy contest is nineteen years of age or older;

- Provide a fantasy contest player with access to information on responsible play and access to information on seeking assistance for compulsive gambling behavior;

- Provide a fantasy contest player with the information regarding the fantasy contest players play history and account details;

- Ensure that a person who is a player in a real-world game or sporting event is restricted from participating in a fantasy

contest that is determined, in whole or in part, on the accumulated statistical results of that player, the player's real-world team, or the sport or competition in which he/she is a player;

- Allow a person to restrict himself or herself from entering a fantasy contest upon request and provide reasonable steps to prevent the person from entering any fantasy contest offered by the fantasy contest operator;
- Disclose the number of entities that a fantasy contest player may submit to each fantasy contest and provide reasonable steps to prevent a fantasy contest player from submitting more than the allowable number;
- Segregate fantasy contest player funds from operator funds or maintain a reserve that exceeds the amount of player funds on deposit, which reserve may not be used for operations activities. Specifies acceptable forms of reserve funds. Reserve funds must exceed the total balances of the accounts of all fantasy contest players.
- Prohibit the use of unauthorized third-party scripts on the platform.

A fantasy contest operator shall not offer a fantasy contest based on the performance of a participant in a collegiate, high school, or youth athletic event.

Requires a fantasy contest operator to:

- Contract annually with a certificated public account to conduct an independent financial audit consistent with the standards accepted by the American Institute of Certified Public Accounts; and
- Submit a copy of the audit report prepared pursuant to subdivision (3)(a) of this section to the department.

Section Seven of the Bill: Sets out penalties for violating this act. Provides that any person who knowingly violates any provision of the Fantasy Contests Act shall be liable for a civil penalty of not more than one thousand dollars for each violation, not to exceed five thousand dollars for violations arising out of the same transaction or occurrence, which shall accrue to the state, and which may be recovered in a civil action brought by the department. All money collected pursuant to this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5 of the Constitution of Nebraska.

Section Eight of the Bill: Amends section 28-1101 to add Fantasy Contest Act to the exception of a person advancing gambling activity.

Adds fantasy contest to the definition of a person gambling if it is not authorized or conducted in accordance with the Fantasy Contests Act.

Specifies that a person does not engage in gambling if it is conducted in accordance with the Fantasy Contests Act.

Specifies that devices used in a fantasy contest conducted in accordance with the Fantasy Contests Act are not considered gambling devices.

Section Nine of this Bill: Amends section 28-1105 to specify that a person does not commit the offense of possession of gambling records if conducted pursuant to the Fantasy Contests Act.

Section Ten of the Bill: Amends section 28-1113 to specify that nothing in this article shall be construed to prohibit or punish the conducting or participating in a fantasy contest when conducted in accordance with the Fantasy Contests Act.

Section Eleven of the Bill: Repeals original sections.

Explanation of amendments:

AM902 removes the \$10,000 annual registration renewal cap on pg 3 line 21. The registration renewal would then be six percent of the fantasy contest operator's gross fantasy contest revenue for the preceding twelve months.

Tom Briese, Chairperson