

By: Raymond

H.B. No. 1418

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of fantasy games; authorizing a civil penalty; requiring the registration of fantasy game operators; requiring a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 13, Business & Commerce Code, is amended by adding Chapter 623 to read as follows:

CHAPTER 623. FANTASY GAMES

Sec. 623.001. DEFINITIONS. In this chapter:

(1) "Confidential information" means information related to the play of a fantasy game by a fantasy game participant that is obtained solely by virtue of a person's employment.

(2) "Fantasy game" means any fantasy or simulation game or contest that meets the following conditions:

(A) the values of all prizes and awards offered to winning fantasy game participants are established and made known to the fantasy game participants in advance of the game or contest;

(B) all winning outcomes reflect the relative knowledge and skill of the fantasy game participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in fantasy or simulation games or contests based on real sporting events;

(C) no winning outcome is based on the score, point spread, or performance or performances of any single team or

1 combination of teams, or solely on any single performance of an
2 individual athlete or player in any single event; and

3 (D) the outcomes of the fantasy or simulation
4 game or contest are not based on the statistical results of the
5 performance of athletes playing college or high school sports.

6 (3) "Fantasy game operator" means a person who:

7 (A) is engaged in the business of professionally
8 conducting fantasy games for cash prizes for members of the general
9 public; and

10 (B) charges a member of the general public who
11 participates in a fantasy game as a fantasy game participant an
12 entry fee of cash or a cash equivalent.

13 (4) "Fantasy game participant" means an individual who
14 participates in a fantasy game offered by a fantasy game operator.

15 Sec. 623.002. POWERS AND DUTIES OF SECRETARY OF STATE;
16 CIVIL PENALTY; ENFORCEMENT. (a) The secretary of state may
17 promulgate rules under this chapter only as necessary to enforce
18 the provisions of this chapter.

19 (b) The secretary of state may impose on a fantasy game
20 operator for a violation of this chapter a civil penalty in an
21 amount not to exceed \$1,000 for any particular violation.

22 (c) The secretary of state may take appropriate enforcement
23 or disciplinary action against a person who violates this chapter,
24 including the suspension or revocation of a registration issued
25 under Section 623.003.

26 (d) Chapter 2001, Government Code, applies to a proceeding
27 for an enforcement or disciplinary action under this section.

Sec. 623.003. REGISTRATION OF FANTASY GAME OPERATORS. (a)

A person may not offer a fantasy game as a fantasy game operator in this state unless the person is registered with the secretary of state under this section, except that the person may offer fantasy games in this state during the time the person's application for registration under this section is pending before the secretary of state. A person may apply for registration under this section on forms prescribed by the secretary of state.

(b) A person may be registered as a fantasy game operator under this section only if the person:

(1) is authorized to transact business in this state;

and

(2) pays to the secretary of state the annual fee imposed under Subsection (c).

(c) A fantasy game operator shall pay to the secretary of state:

(1) an annual registration fee of \$5,000 to obtain initial registration under this section; and

(2) an annual registration renewal fee of \$5,000 on the anniversary of the date the operator obtains the initial registration.

Sec. 623.004. CONSUMER PROTECTION PROVISIONS. (a) A fantasy game operator shall implement procedures intended to:

(1) prevent the fantasy game operator, an employee of the operator, or a relative of the operator who is living in the same household as the operator from competing in any fantasy game offered by the operator that awards a cash prize;

1 (2) prevent the sharing with third parties of
2 confidential information that could affect fantasy game play until
3 the information is made publicly available;

4 (3) verify that a fantasy game participant is 18 years
5 of age or older;

6 (4) ensure that an individual who is a player in a real
7 game or competition is restricted from participating in a fantasy
8 game that is determined, wholly or partly, on the accumulated
9 statistical results of that player, the player's real team, or the
10 game or contest in which the individual is a player;

11 (5) allow individuals on request to restrict
12 themselves from entering a fantasy game and take reasonable steps
13 to prevent those individuals from entering the fantasy game
14 operator's fantasy game;

15 (6) disclose the maximum number of entries a fantasy
16 game participant may submit to each fantasy game and take
17 reasonable steps to prevent fantasy game participants from
18 submitting a number of entries that exceeds that allowable number;

19 (7) segregate fantasy game participant funds from
20 operational funds of the fantasy game operator or maintain a
21 reserve in the form of cash, cash equivalents, credit card and
22 payment processor reserves and receivables, an irrevocable letter
23 of credit, a bond, or any combination of these forms in an amount
24 equal to the deposits made to the accounts of fantasy game
25 participants for the benefit and protection of the funds held in
26 those accounts;

27 (8) provide fantasy game participants with access to

1 information on responsible play; and

2 (9) provide fantasy game participants with access to
3 the participant's play history and account details.

4 (b) A fantasy game operator offering fantasy games may not
5 target minors or other excluded players in any advertising of the
6 operator's fantasy games.

7 Sec. 623.005. ANNUAL AUDIT. A fantasy game operator must
8 contract annually with a certified public accountant to perform an
9 independent financial audit of the operator's fantasy game
10 operations under this chapter to ensure compliance with this
11 chapter. The operator must annually submit the results of the audit
12 to the secretary of state.

13 Sec. 623.006. CLASSIFICATION OF FANTASY GAMES. A fantasy
14 game operator or fantasy game participant that owns, operates,
15 provides, or participates in fantasy games in a manner consistent
16 with this chapter is not subject to prosecution for an offense under
17 the Penal Code that prohibits gaming or related activities.

18 SECTION 2. This Act takes effect September 1, 2017.