

By: Kolkhorst

S.B. No. 731

A BILL TO BE ENTITLED

AN ACT

relating to fantasy sports contests.

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

SECTION 1. Subtitle B, Title 13, Occupations Code, is amended by adding Chapter 2053 to read as follows:

CHAPTER 2053. FANTASY SPORTS CONTESTS

Sec. 2053.001. DEFINITIONS. In this chapter:

(1) "Fantasy sports contest" means a competition in which:

(A) a participant pays money or other consideration for the opportunity to assemble a fictional team composed of professional or amateur sports athletes selected by the participant to compete against other fictional teams of sports athletes assembled by other competition participants;

(B) the outcome of the competition reflects the relative knowledge and skill of the participants and is based on the actual statistical performance of the selected athletes in sports competitions, or in a season or series of sports competitions;

(C) a prize is awarded to the competition winner;

(D) the outcome of the competition or the redemption of the winnings is not displayed or represented in a manner that mimics a slot machine or other form of casino gaming, including a banked card game, poker, craps, roulette, keno, lotto, and bingo; and

1 (E) the competition is not presented using any
2 depiction of a casino gaming graphic, theme, or title, including
3 any depiction of a slot machine-style symbol, a banked card game,
4 poker, craps, roulette, keno, lotto, and bingo.

5 (2) "Fantasy sports operator" means a person,
6 including an entity or a division of an entity, that offers fantasy
7 sports contests to the public.

8 (3) "Sports association" means a group of professional
9 or amateur teams or athletes that compete against one another in a
10 specific sport.

11 Sec. 2053.002. LEGISLATIVE FINDINGS. (a) The legislature
12 finds that a participant in a fantasy sports contest is an actual
13 contestant in a bona fide competition to determine the skill of the
14 participant in assembling a fictional team of sports athletes.

15 (b) An individual who pays money or other consideration to
16 participate in a fantasy sports contest is not placing a bet for
17 purposes of the application of an offense under Chapter 47, Penal
18 Code.

19 Sec. 2053.003. PARTICIPATION IN FANTASY SPORTS CONTEST. An
20 individual may pay money or other consideration to participate in a
21 fantasy sports contest.

22 Sec. 2053.004. OPERATION OF FANTASY SPORTS CONTEST. (a) A
23 person may offer fantasy sports contests as a fantasy sports
24 operator in this state in accordance with this chapter and any
25 applicable federal law and may participate in the earnings of a
26 business that offers fantasy sports contests.

27 (b) A fantasy sports operator may not:

1 (1) award a prize based:

2 (A) on the score, the point spread, or any
3 performance of a single professional or amateur sports team or any
4 combination of professional or amateur sports teams;

5 (B) solely on any single performance of an
6 individual athlete in a single professional or amateur sports
7 competition or other event; or

8 (C) on a fantasy sports contest based on a live
9 pari-mutuel racing performance regulated under Subtitle A-1 (Texas
10 Racing Act);

11 (2) offer a fantasy sports contest to the public
12 without disclosing before the contest all prizes offered to winning
13 participants of the contest; or

14 (3) offer a fantasy sports contest based on the
15 performance of athletes in a youth, high school, or collegiate
16 sports competition or athletic event.

17 Sec. 2053.005. CONSUMER PROTECTION. A fantasy sports
18 operator shall implement commercially reasonable procedures for
19 fantasy sports contests that:

20 (1) prevent an employee or agent of the operator, and
21 any relative living in the same household as the employee or agent,
22 from competing in a fantasy sports contest offered by the operator
23 to the public in which a cash prize is awarded;

24 (2) prevent an employee or agent of the operator from
25 sharing with third parties before the information is made publicly
26 available information relevant to a fantasy sports contest that is
27 obtained by the employee or agent because of the person's

1 employment or agency and that could affect fantasy sports contest
2 play;

3 (3) verify that fantasy sports contest participants
4 are 18 years of age or older;

5 (4) restrict an individual who is a player, a game
6 official, or another participant in a professional or amateur
7 sports competition from participating in a fantasy sports contest
8 that is determined, wholly or partly, on the performance of:

9 (A) that individual, the individual's
10 professional or amateur team, or the accumulated statistical
11 results of the sport or competition in which the individual is a
12 player, game official, or other participant; or

13 (B) another individual or team competing in the
14 same sports association in which the individual participates; and

15 (5) segregate contest participants' funds from the
16 operator's funds or maintain a reserve in the form of cash, cash
17 equivalents, an irrevocable letter of credit, a bond, payment
18 processor reserves, payment processor receivables, or any
19 combination of those forms, in an amount equal to or greater than
20 the total amount of funds in all contest participants' accounts,
21 for the benefit and protection of the funds held in those accounts.

22 Sec. 2053.006. INJUNCTIVE RELIEF. (a) The attorney
23 general may institute an action for injunctive relief to restrain a
24 violation by a person who appears to be in violation of or
25 threatening to violate this chapter.

26 (b) An action filed under this section by the attorney
27 general must be filed in a district court in Travis County or the

1 county in which the violation occurred.

2 (c) The attorney general may recover reasonable expenses
3 incurred in obtaining injunctive relief under this section,
4 including court costs, reasonable attorney's fees, investigative
5 costs, witness fees, and deposition expenses.

6 (d) In an injunction issued under this section, a court may
7 include reasonable requirements to prevent further violations of
8 this chapter.

9 SECTION 2. Section 47.02(c), Penal Code, as effective April
10 1, 2019, is amended to read as follows:

11 (c) It is a defense to prosecution under this section that
12 the actor reasonably believed that the conduct:

13 (1) was permitted under Chapter 2001, Occupations
14 Code;

15 (2) was permitted under Chapter 2002, Occupations
16 Code;

17 (3) was permitted under Chapter 2004, Occupations
18 Code;

19 (4) was permitted under Chapter 2053, Occupations
20 Code;

21 (5) consisted entirely of participation in the state
22 lottery authorized by the State Lottery Act (Chapter 466,
23 Government Code);

24 (6) [~~5~~] was permitted under Subtitle A-1, Title 13,
25 Occupations Code (Texas Racing Act); or

26 (7) [~~6~~] consisted entirely of participation in a
27 drawing for the opportunity to participate in a hunting, fishing,

1 or other recreational event conducted by the Parks and Wildlife
2 Department.

3 SECTION 3. Section 47.09(a), Penal Code, as effective April
4 1, 2019, is amended to read as follows:

5 (a) It is a defense to prosecution under this chapter that
6 the conduct:

7 (1) was authorized under:

8 (A) Chapter 2001, Occupations Code;

9 (B) Chapter 2002, Occupations Code;

10 (C) Chapter 2004, Occupations Code;

11 (D) Chapter 2053, Occupations Code;

12 (E) Subtitle A-1, Title 13, Occupations Code
13 (Texas Racing Act); or

14 (F) [~~(E)~~] Chapter 280, Finance Code;

15 (2) consisted entirely of participation in the state
16 lottery authorized by Chapter 466, Government Code; or

17 (3) was a necessary incident to the operation of the
18 state lottery and was directly or indirectly authorized by:

19 (A) Chapter 466, Government Code;

20 (B) the lottery division of the Texas Lottery
21 Commission;

22 (C) the Texas Lottery Commission; or

23 (D) the director of the lottery division of the
24 Texas Lottery Commission.

25 SECTION 4. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2019.