

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1941
98TH GENERAL ASSEMBLY

Reported from the Committee on Progress and Development, April 28, 2016, with recommendation that the Senate Committee Substitute do pass.

5525S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 572.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 572.010 as enacted by Referendum, Proposition A, November 3, 1992, RSMo, and to enact in lieu thereof fourteen new sections relating to the Missouri daily fantasy sports consumer protection act, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 572.010 as enacted by senate bill no. 491, ninety-
2 seventh general assembly, second regular session, and section 572.010 as enacted
3 by Referendum, Proposition A, November 3, 1992, RSMo, are repealed and
4 fourteen new sections enacted in lieu thereof, to be known as sections 313.900,
5 313.910, 313.920, 313.930, 313.940, 313.950, 313.960, 313.970, 313.980, 313.990,
6 313.1000, 313.1010, 313.1020, and 572.010, to read as follows:

**313.900. Sections 313.900 to 313.1020 shall be known and may be
2 cited as the "Missouri Daily Fantasy Sports Consumer Protection Act".**

**313.910. As used in sections 313.900 to 313.1020, the following
2 terms shall mean:**

**3 (1) "Adjusted gross receipts", the amount of all entry fees or cash
4 equivalents a licensed operator or authorized internet website requires
5 to participate in a daily fantasy sports game that is not paid out for
6 prizes in that game;**

**7 (2) "Authorized internet website", an internet website or any
8 platform operated by a licensed operator;**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- 9 (3) "Commission", the Missouri gaming commission;
- 10 (4) "Daily fantasy sports game", a game of any duration
11 conducted on the internet or any platform in which a registered player
12 does all of the following:
- 13 (a) Competes against other registered players or a target score
14 as the owner or manager of an imaginary or simulated team of athletes
15 in an imaginary or simulated game;
- 16 (b) Uses the statistics accumulated by the athletes in real-world
17 sporting events to determine the scores of the imaginary or simulated
18 game;
- 19 (c) Plays for a predetermined prize;
- 20 (d) Pays a charge or fee or anything of value to the licensed
21 operator providing the game in order to participate;
- 22 (5) "Fund", the daily fantasy sports fund established by section
23 313.980;
- 24 (6) "Gross receipts", the amount of all entry fees or cash
25 equivalents a licensed operator or authorized internet website requires
26 to participate in a daily fantasy sports game;
- 27 (7) "Licensed operator", a person or entity licensed pursuant to
28 section 313.920 to offer daily fantasy sports games for play on an
29 authorized internet website;
- 30 (8) "Registered player", a person registered pursuant to section
31 313.940 to participate in a daily fantasy sports game on an authorized
32 internet website.

313.920. 1. A person or entity shall apply for and receive a
2 license from the commission prior to offering a daily fantasy sports
3 game for play in Missouri.

4 2. It is the burden of the applicant to show by clear and
5 convincing evidence their suitability as to character, experience, and
6 other factors as may be deemed appropriate by the commission.

7 3. The commission may issue a license to a person or entity to
8 offer daily fantasy sports games for play in Missouri if the applicant
9 satisfies the requirements for licensure as determined by the rules of
10 the commission.

313.930. 1. In order to ensure the protection of registered
2 players, an authorized internet website shall identify the person or
3 entity that is the licensed operator.

4 **2. A licensed operator shall ensure that daily fantasy sports**
5 **games on its authorized internet website comply with all of the**
6 **following:**

7 **(1) An imaginary or simulated sports team in the game shall not**
8 **be based on the current membership of an actual team that is a member**
9 **of an amateur or professional sports organization;**

10 **(2) A prize or award offered to the winning registered player or**
11 **players shall be established and made known to the participating**
12 **registered players in advance of the contest;**

13 **(3) The value of a prize or award offered to the winning**
14 **registered player or players shall not be determined by the number of**
15 **participating registered players or the amount of any charges paid by**
16 **those participating registered players to the licensed operator;**

17 **(4) The winning outcome of the game shall not be either of the**
18 **following:**

19 **(a) Based on the score, point spread, or performance of any**
20 **single real-world team or any combination of real-world teams;**

21 **(b) Based solely on the single performance of an individual**
22 **athlete in a single real-world sporting event.**

23 **3. A licensed operator shall hold the funds of a registered player**
24 **in a registered players account in trust for that registered player.**

25 **4. A licensed operator shall implement, and prominently display**
26 **on its authorized internet website, procedures that accomplish all of**
27 **the following:**

28 **(1) Prevent unauthorized withdrawals from a registered player's**
29 **account, including, but not limited to, withdrawals by the licensed**
30 **operator and other individuals;**

31 **(2) Prevent commingling of funds in a registered player's**
32 **account with other funds, including, but not limited to, the licensed**
33 **operators funds;**

34 **(3) Establish procedures for a registered player to report**
35 **complaints to the licensed operator regarding whether his or her**
36 **account has been misallocated, compromised, or otherwise mishandled,**
37 **and a procedure for the licensed operator to respond to those**
38 **complaints.**

39 **5. A licensed operator shall not issue credit to a registered**
40 **player.**

41 6. A licensed operator shall not allow a registered player to
42 establish more than one account or user name on its authorized
43 internet website.

 313.940. 1. A person shall register with a licensed operator prior
2 to participating in daily fantasy sports games on an authorized internet
3 website.

4 2. A licensed operator shall ensure that an individual is eligible
5 to play daily fantasy sports games on an authorized internet website,
6 and implement appropriate data security standards to prevent access
7 by a person whose state of residence and age have not been verified in
8 accordance with this section.

9 3. A licensed operator shall ensure that an individual provides
10 their state of residence before participating in daily fantasy sports
11 games on an authorized internet website.

12 4. A licensed operator shall ensure that an individual is of legal
13 age before participating in daily fantasy sports games on an authorized
14 internet website. In Missouri, the legal age to participate shall be
15 twenty-one years of age.

16 5. (1) The licensed operator shall develop an online
17 self-exclusion form and a process to exclude from play any person who
18 has filled out the form, and any person whose name has been placed on
19 the disassociated persons list or the involuntary exclusion list that is
20 maintained by the commission.

21 (2) A licensed operator shall retain each online self-exclusion
22 form submitted to it in order to identify persons who want to be
23 excluded from play. A licensed operator shall exclude those persons
24 and any person whose name has been placed on the disassociated
25 persons list or the involuntary exclusion list from play.

26 (3) A licensed operator shall prominently display a link to the
27 commission's problem gaming website page and the online
28 self-exclusion form described in subdivision (1) of this subsection when
29 either of the following occurs:

30 (a) A person registers as a registered player;

31 (b) Each time a registered player accesses the authorized
32 internet website prior to playing.

33 6. A licensed operator shall not advertise daily fantasy sports
34 games in publications or other media that are aimed exclusively or

35 primarily at persons under twenty-one years of age. A licensed
36 operator's advertisement shall not depict persons under twenty-one
37 years of age, students, or settings involving a school or college.

38 7. A licensed operator shall not advertise daily fantasy sports
39 games to an individual by phone, email, or any other form of
40 individually targeted advertisement or marketing material if the
41 individual has self-excluded himself or herself pursuant to this section,
42 if the individual has been placed on the disassociated persons list, if
43 the individual has been placed on the involuntary exclusion list, or if
44 the individual is otherwise barred from participating in daily fantasy
45 sports games.

313.950. 1. This section applies to all of the following persons:

- 2 (1) An officer of a licensed operator;
- 3 (2) A director of a licensed operator;
- 4 (3) A principal of a licensed operator;
- 5 (4) An employee of a licensed operator; and
- 6 (5) A contractor of a licensed operator.

7 2. A person listed in subsection 1 of this section shall not play
8 any daily fantasy sports game.

9 3. A person listed in subsection 1 of this section shall not disclose
10 proprietary or nonpublic information that may affect the play of daily
11 fantasy sports games to any individual authorized to play daily fantasy
12 sports games.

13 4. A licensed operator shall make the prohibitions in this section
14 known to all affected individuals and corporate entities.

313.960. 1. Each licensed operator shall comply with all
2 applicable federal, state, local laws, and regulations including without
3 limitation laws and regulations applicable to tax withholdings and laws
4 and regulations applicable to providing information about winnings
5 and the withholding to taxing authorities.

6 2. Each licensed operator shall withhold for state income tax
7 purposes from any prizes awarded of twelve hundred dollars or more
8 an amount equal to four percent of the prize. Withholdings made
9 pursuant to this section shall be subject to the withholding tax
10 provisions in sections 143.191 to 143.261, including section 143.261.

313.970. Prior to operating an authorized internet website, the
2 person or entity wishing to operate an authorized internet website

3 shall apply with the commission for a license and shall remit to the
4 state treasurer a nonrefundable fee of fifty thousand dollars or fifteen
5 thousand dollars for each person to be investigated, whichever amount
6 is greater. The applicant shall be responsible for the total cost of the
7 investigation. If the cost of the investigation exceeds the total amount
8 of fees filed by the applicant in this subsection, the commission may
9 assess additional fees as it deems appropriate. The initial license and
10 first subsequent license renewal of an operator shall be for a period of
11 one year. Thereafter, license renewal periods shall be four
12 years. However, the commission may reopen licensing hearings at any
13 time. The commission shall assess an annual fee for licensed operators
14 pursuant to this subsection in an amount to be set by the commission
15 with a minimum of twenty-five thousand dollars. All application and
16 renewal fees shall be deposited in the state treasury to the credit of the
17 gaming commission fund to be administered pursuant to the provisions
18 of section 313.835.

313.980. 1. A tax is imposed on the adjusted gross receipts
2 received from daily fantasy sports games authorized pursuant to
3 sections 313.900 to 313.1020 calculated at the rate of twenty-one percent
4 from all adjusted gross receipts received from registered players who
5 are residents of the state of Missouri.

6 2. A licensed operator shall collect adjusted gross receipts, on an
7 individual basis, at the time the registered player enters a daily fantasy
8 sports game and shall ensure that the same amount of adjusted gross
9 receipts is taken from each registered player participating in a given
10 daily fantasy sports game.

11 3. The adjusted gross receipts tax shall be deposited monthly in
12 the state treasury to the credit of the "Fantasy Sports Fund" which is
13 hereby created in the state treasury. Moneys deposited in this fund
14 shall be kept separate from the general revenue fund as well as any
15 other funds or accounts in the state treasury, and shall be used solely
16 for funding public schools in the state of Missouri.

313.990. A licensed operator shall contract annually with a
2 certified public accountant to perform a financial audit of the licensed
3 daily fantasy sports game operations to ensure compliance with
4 sections 313.900 to 313.1020 and any rule governing sections 313.900 to
5 313.1020. The game operator shall pay for the audit and submit the

6 results of the audit to the commission.

313.1000. 1. Notwithstanding any applicable statutory provision
2 to the contrary, all investigatory, proprietary, or application records,
3 information, and summaries in the possession of the commission or its
4 agents may be treated by the commission as closed records not to be
5 disclosed to the public; except that the commission shall, on written
6 request from any person, provide such person with the following
7 information furnished by an applicant or licensee:

8 (1) The name, business address, and business telephone number
9 of any applicant or licensee;

10 (2) An identification of any applicant or licensee, including, if an
11 applicant or licensee is not an individual, the state of incorporation or
12 registration, the corporate officers, and the identity of all shareholders
13 or participants. If an applicant or licensee has a pending registration
14 statement filed with the federal Securities and Exchange Commission,
15 the names of those persons or entities holding interest must be
16 provided;

17 (3) An identification of any business, including, if applicable, the
18 state of incorporation or registration in which an applicant or licensee
19 or an applicant's or licensee's spouse or children have an equity
20 interest. If an applicant or licensee is a corporation, partnership, or
21 other business entity, the applicant or licensee shall identify any other
22 corporation, partnership, or business entity in which it has an equity
23 interest, including, if applicable, the state of incorporation or
24 registration. This information need not be provided by a corporation,
25 partnership, or other business entity that has a pending registration
26 statement filed with the federal Securities and Exchange Commission;

27 (4) Whether an applicant or licensee has been indicted,
28 convicted, pleaded guilty or nolo contendere, or forfeited bail
29 concerning any criminal offense under the laws of any jurisdiction,
30 either felony or misdemeanor, except for traffic violations, including
31 the date, the name and location of the court, arresting agency and
32 prosecuting agency, the case number, the offense, the disposition, and
33 the location and length of incarceration;

34 (5) Whether an applicant or licensee has had any license or
35 certificate issued by a licensing authority in this state or any
36 jurisdiction denied, restricted, suspended, revoked, or not renewed and

37 a statement describing the facts and circumstances concerning the
38 denial, restriction, suspension, revocation, or nonrenewal, including the
39 licensing authority, the date each such action was taken, and the
40 reason for each such action;

41 (6) Whether an applicant or licensee has ever filed or had filed
42 against it a proceeding in bankruptcy or has ever been involved in any
43 formal process to adjust, defer, suspend, or otherwise work out the
44 payment of any debt, including the date of filing, the name and location
45 of the court, and the case and number of the disposition;

46 (7) Whether an applicant or licensee has filed or been served
47 with a complaint or other notice filed with any public body regarding
48 the delinquency in the payment of, or a dispute over, the filings
49 concerning the payment of any tax required under federal, state, or
50 local law, including the amount, type of tax, the taxing agency, and
51 time periods involved;

52 (8) A statement listing the names and titles of all public officials
53 or officers of any unit of government, and relatives of such public
54 officials or officers who, directly or indirectly, own any financial
55 interest in, have any beneficial interest in, are the creditors of or hold
56 any debt instrument issued by, or hold or have any interest in any
57 contractual or service relationship with, an applicant or licensee;

58 (9) Whether an applicant or licensee has made, directly or
59 indirectly, any political contribution, or any loans, donations, or other
60 payments of one hundred dollars or more, to any candidate or office
61 holder within five years from the date of filing the application,
62 including the amount and the method of payment;

63 (10) The name and business telephone number of the attorney
64 representing an applicant or licensee in matters before the commission.

65 2. Notwithstanding any applicable statutory provision to the
66 contrary, the commission shall, on written request from any person,
67 also provide the following information:

68 (1) The amount of the tax receipts paid to the state by the holder
69 of a license;

70 (2) Whenever the commission finds an applicant for a license
71 unsuitable for licensing, a copy of the written letter outlining the
72 reasons for the denial; and

73 (3) Whenever the commission has refused to grant leave for an

74 applicant to withdraw his application, a copy of the letter outlining the
75 reasons for the refusal.

313.1010. The commission shall have full jurisdiction over and
2 shall supervise all licensed operators and authorized internet websites
3 governed by sections 313.900 to 313.1020. The commission shall have
4 the following powers to implement sections 313.900 to 313.1020:

5 (1) To investigate applicants and determine the eligibility of
6 applicants for a license;

7 (2) To license operators and any other occupation the
8 commission deems appropriate, and adopt standards for licensing
9 including establishing fees;

10 (3) To investigate alleged violations of sections 313.900 to
11 313.1020 or the commission's rules, orders, or final decisions;

12 (4) To assess any appropriate administrative penalty against a
13 licensee for violations of sections 313.900 to 313.1020 or the
14 commission's rules, orders, or final decisions, including, but not limited
15 to, suspension, revocation, and penalties of an amount as determined
16 by the commission up to three times the highest daily amount of gross
17 receipts received from registered players who are residents of Missouri
18 during the previous twelve months;

19 (5) To issue subpoenas for the attendance of witnesses and
20 subpoenas duces tecum for the production of books, records, and other
21 pertinent documents, and to administer oaths and affirmations to the
22 witnesses, when, in the judgment of the commission, it is necessary to
23 enforce sections 313.900 to 313.1020 or the commission rules;

24 (6) To take any other action as may be reasonable or appropriate
25 to enforce sections 313.900 to 313.1020 and the commission rules.

313.1020. The commission shall have power to adopt and enforce
2 rules and regulations to regulate and license the management,
3 operation, and conduct of daily fantasy sports games and participants
4 therein and to properly administer and enforce the provisions of
5 sections 313.900 to 313.1020. Any rule or portion of a rule, as that term
6 is defined in section 536.010 that is created under the authority
7 delegated in this section shall become effective only if it complies with
8 and is subject to all of the provisions of chapter 536, and, if applicable,
9 section 536.028. This section and chapter 536 are nonseverable and if
10 any of the powers vested with the general assembly pursuant to chapter

11 **536, to review, to delay the effective date, or to disapprove and annul**
12 **a rule are subsequently held unconstitutional, then the grant of**
13 **rulemaking authority and any rule proposed or adopted after August**
14 **28, 2016, shall be invalid and void.**

572.010. As used in this chapter the following terms mean:

2 (1) "Advance gambling activity", a person advances gambling activity if,
3 acting other than as a player, he or she engages in conduct that materially aids
4 any form of gambling activity. Conduct of this nature includes but is not limited
5 to conduct directed toward the creation or establishment of the particular game,
6 lottery, contest, scheme, device or activity involved, toward the acquisition or
7 maintenance of premises, paraphernalia, equipment or apparatus therefor, toward
8 the solicitation or inducement of persons to participate therein, toward the actual
9 conduct of the playing phases thereof, toward the arrangement or communication
10 of any of its financial or recording phases, or toward any other phase of its
11 operation. A person advances gambling activity if, having substantial proprietary
12 control or other authoritative control over premises being used with his or her
13 knowledge for purposes of gambling activity, he or she permits that activity to
14 occur or continue or makes no effort to prevent its occurrence or
15 continuation. The supplying, servicing and operation of a licensed excursion
16 gambling boat under sections 313.800 to 313.840 does not constitute advancing
17 gambling activity. **The offering or operating of a daily fantasy sports**
18 **game as defined in this section is advancing gambling activity, unless**
19 **the person or entity offering or operating such game is licensed under**
20 **sections 313.900 to 313.1020;**

21 (2) "Bookmaking", advancing gambling activity by unlawfully accepting
22 bets from members of the public as a business, rather than in a casual or
23 personal fashion, upon the outcomes of future contingent events;

24 (3) "Contest of chance", any contest, game, gaming scheme or gaming
25 device in which the outcome depends in a material degree upon an element of
26 chance, notwithstanding that the skill of the contestants may also be a factor
27 therein;

28 (4) "**Daily fantasy sports game**", a game of any duration conducted
29 **on the internet or any platform in which a participant does all of the**
30 **following:**

31 (a) **Competes against other registered players or a target score**
32 **as the owner or manager of an imaginary or simulated team of athletes**

33 **in an imaginary or simulated game;**

34 **(b) Uses the statistics accumulated by the athletes in real-world**
35 **sporting events to determine the scores of the imaginary or simulated**
36 **game;**

37 **(c) Plays for a predetermined prize;**

38 **(d) Pays a charge to the licensed operator providing the game in**
39 **order to participate;**

40 **(5) "Gambling", a person engages in gambling when he or she stakes or**
41 **risks something of value upon the outcome of a contest of chance or a future**
42 **contingent event not under his or her control or influence, upon an agreement or**
43 **understanding that he or she will receive something of value in the event of a**
44 **certain outcome. Gambling does not include bona fide business transactions valid**
45 **under the law of contracts, including but not limited to contracts for the purchase**
46 **or sale at a future date of securities or commodities, and agreements to**
47 **compensate for loss caused by the happening of chance, including but not limited**
48 **to contracts of indemnity or guaranty and life, health or accident insurance; nor**
49 **does gambling include playing an amusement device that confers only an**
50 **immediate right of replay not exchangeable for something of value. Gambling**
51 **does not include any licensed activity, or persons participating in such games**
52 **which are covered by sections 313.800 to 313.840. **Participating in a daily****
53 **fantasy sports game as defined in this section is gambling, unless the**
54 **person participating is registered under sections 313.900 to 313.1020;**

55 **[(5)] (6) "Gambling device", any device, machine, paraphernalia or**
56 **equipment that is used or usable in the playing phases of any gambling activity,**
57 **whether that activity consists of gambling between persons or gambling by a**
58 **person with a machine. However, lottery tickets, policy slips and other items**
59 **used in the playing phases of lottery and policy schemes are not gambling devices**
60 **within this definition;**

61 **[(6)] (7) "Gambling record", any article, instrument, record, receipt,**
62 **ticket, certificate, token, slip or notation used or intended to be used in**
63 **connection with unlawful gambling activity;**

64 **[(7)] (8) "Lottery" or "policy", an unlawful gambling scheme in which for**
65 **a consideration the participants are given an opportunity to win something of**
66 **value, the award of which is determined by chance;**

67 **[(8)] (9) "Player", a person who engages in any form of gambling solely**
68 **as a contestant or bettor, without receiving or becoming entitled to receive any**

69 profit therefrom other than personal gambling winnings, and without otherwise
70 rendering any material assistance to the establishment, conduct or operation of
71 the particular gambling activity. A person who gambles at a social game of
72 chance on equal terms with the other participants therein does not otherwise
73 render material assistance to the establishment, conduct or operation thereof by
74 performing, without fee or remuneration, acts directed toward the arrangement
75 or facilitation of the game, such as inviting persons to play, permitting the use
76 of premises therefor and supplying cards or other equipment used therein. A
77 person who engages in "bookmaking" as defined in subdivision (2) of this section
78 is not a player;

79 **[(9)] (10)** "Professional player", a player who engages in gambling for a
80 livelihood or who has derived at least twenty percent of his or her income in any
81 one year within the past five years from acting solely as a player;

82 **[(10)] (11)** "Profit from gambling activity", a person profits from gambling
83 activity if, other than as a player, he or she accepts or receives money or other
84 property pursuant to an agreement or understanding with any person whereby
85 he participates or is to participate in the proceeds of gambling activity;

86 **[(11)] (12)** "Slot machine", a gambling device that as a result of the
87 insertion of a coin or other object operates, either completely automatically or
88 with the aid of some physical act by the player, in such a manner that, depending
89 upon elements of chance, it may eject something of value. A device so constructed
90 or readily adaptable or convertible to such use is no less a slot machine because
91 it is not in working order or because some mechanical act of manipulation or
92 repair is required to accomplish its adaptation, conversion or workability. Nor
93 is it any less a slot machine because apart from its use or adaptability as such it
94 may also sell or deliver something of value on a basis other than chance;

95 **[(12)] (13)** "Something of value", any money or property, any token, object
96 or article exchangeable for money or property, or any form of credit or promise
97 directly or indirectly contemplating transfer of money or property or of any
98 interest therein or involving extension of a service, entertainment or a privilege
99 of playing at a game or scheme without charge;

100 **[(13)] (14)** "Unlawful", not specifically authorized by law.

572.010. As used in this chapter:

2 (1) "Advance gambling activity", a person "advances gambling activity" if,
3 acting other than as a player, he engages in conduct that materially aids any
4 form of gambling activity. Conduct of this nature includes but is not limited to

5 conduct directed toward the creation or establishment of the particular game,
6 lottery, contest, scheme, device or activity involved, toward the acquisition or
7 maintenance of premises, paraphernalia, equipment or apparatus therefor, toward
8 the solicitation or inducement of persons to participate therein, toward the actual
9 conduct of the playing phases thereof, toward the arrangement or communication
10 of any of its financial or recording phases, or toward any other phase of its
11 operation. A person advances gambling activity if, having substantial proprietary
12 control or other authoritative control over premises being used with his
13 knowledge for purposes of gambling activity, he permits that activity to occur or
14 continue or makes no effort to prevent its occurrence or continuation. The
15 supplying, servicing and operation of a licensed excursion gambling boat under
16 sections 313.800 to 313.840 does not constitute advancing gambling activity. **The**
17 **offering or operating of a daily fantasy sports game as defined in this**
18 **section is advancing gambling activity, unless the person or entity**
19 **offering or operating such game is licensed under sections 313.900 to**
20 **313.1020;**

21 (2) "Bookmaking", means advancing gambling activity by unlawfully
22 accepting bets from members of the public as a business, rather than in a casual
23 or personal fashion, upon the outcomes of future contingent events;

24 (3) "Contest of chance" means any contest, game, gaming scheme or
25 gaming device in which the outcome depends in a material degree upon an
26 element of chance, notwithstanding that the skill of the contestants may also be
27 a factor therein;

28 (4) "**Daily fantasy sports game**", a game of any duration conducted
29 **on the internet or any platform in which a participant does all of the**
30 **following:**

31 (a) **Competes against other registered players or a target score**
32 **as the owner or manager of an imaginary or simulated team of athletes**
33 **in an imaginary or simulated game;**

34 (b) **Uses the statistics accumulated by the athletes in real-world**
35 **sporting events to determine the scores of the imaginary or simulated**
36 **game;**

37 (c) **Plays for a predetermined prize;**

38 (d) **Pays a charge to the licensed operator providing the game in**
39 **order to participate;**

40 (5) "Gambling", a person engages in "gambling" when he stakes or risks

41 something of value upon the outcome of a contest of chance or a future contingent
42 event not under his control or influence, upon an agreement or understanding
43 that he will receive something of value in the event of a certain
44 outcome. Gambling does not include bona fide business transactions valid under
45 the law of contracts, including but not limited to contracts for the purchase or
46 sale at a future date of securities or commodities, and agreements to compensate
47 for loss caused by the happening of chance, including but not limited to contracts
48 of indemnity or guaranty and life, health or accident insurance; nor does
49 gambling include playing an amusement device that confers only an immediate
50 right of replay not exchangeable for something of value. Gambling does not
51 include any licensed activity, or persons participating in such games which are
52 covered by sections 313.800 to 313.840. **Participating in a daily fantasy
53 sports game as defined in this section is gambling, unless the person
54 participating is registered under sections 313.900 to 313.1020;**

55 [(5)] (6) "Gambling device" means any device, machine, paraphernalia or
56 equipment that is used or usable in the playing phases of any gambling activity,
57 whether that activity consists of gambling between persons or gambling by a
58 person with a machine. However, lottery tickets, policy slips and other items
59 used in the playing phases of lottery and policy schemes are not gambling devices
60 within this definition;

61 [(6)] (7) "Gambling record" means any article, instrument, record,
62 receipt, ticket, certificate, token, slip or notation used or intended to be used in
63 connection with unlawful gambling activity;

64 [(7)] (8) "Lottery" or "policy" means an unlawful gambling scheme in
65 which for a consideration the participants are given an opportunity to win
66 something of value, the award of which is determined by chance;

67 [(8)] (9) "Player" means a person who engages in any form of gambling
68 solely as a contestant or bettor, without receiving or becoming entitled to receive
69 any profit therefrom other than personal gambling winnings, and without
70 otherwise rendering any material assistance to the establishment, conduct or
71 operation of the particular gambling activity. A person who gambles at a social
72 game of chance on equal terms with the other participants therein does not
73 otherwise render material assistance to the establishment, conduct or operation
74 thereof by performing, without fee or remuneration, acts directed toward the
75 arrangement or facilitation of the game, such as inviting persons to play,
76 permitting the use of premises therefor and supplying cards or other equipment

77 used therein. A person who engages in "bookmaking" as defined in subdivision
78 (2) of this section is not a "player";

79 [(9)] (10) "Professional player" means a player who engages in gambling
80 for a livelihood or who has derived at least twenty percent of his income in any
81 one year within the past five years from acting solely as a player;

82 [(10)] (11) "Profit from gambling activity", a person "profits from
83 gambling activity" if, other than as a player, he accepts or receives money or
84 other property pursuant to an agreement or understanding with any person
85 whereby he participates or is to participate in the proceeds of gambling activity;

86 [(11)] (12) "Slot machine" means a gambling device that as a result of the
87 insertion of a coin or other object operates, either completely automatically or
88 with the aid of some physical act by the player, in such a manner that, depending
89 upon elements of chance, it may eject something of value. A device so constructed
90 or readily adaptable or convertible to such use is no less a slot machine because
91 it is not in working order or because some mechanical act of manipulation or
92 repair is required to accomplish its adaptation, conversion or workability. Nor
93 is it any less a slot machine because apart from its use or adaptability as such it
94 may also sell or deliver something of value on a basis other than chance;

95 [(12)] (13) "Something of value" means any money or property, any
96 token, object or article exchangeable for money or property, or any form of credit
97 or promise directly or indirectly contemplating transfer of money or property or
98 of any interest therein or involving extension of a service, entertainment or a
99 privilege of playing at a game or scheme without charge;

100 [(13)] (14) "Unlawful" means not specifically authorized by law.

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