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130<sup>TH</sup> MAINE STATE LEGISLATURE  
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December 30, 2020

Milton Champion, Executive Director  
Maine Department of Public Safety  
Gambling Control Unit  
87 State House Station  
Augusta, ME 04333

Re: Submission of provisional rule for legislative review

Dear Mr. Champion:

This letter is to acknowledge our receipt of the major substantive rule provisionally adopted by the Maine Department of Public Safety Gambling Control Unit and related materials filed pursuant to 5 MRSA §8072, sub-§2. They were received on December 15, 2020. The provisional rule is entitled: "Regulation of Fantasy Gambling," and is authorized pursuant to 8 MRSA §1106.

We have reviewed the filing and have concluded it is sufficiently complete for the purposes of beginning the review process and that the rule was filed within the legislative rule acceptance period as defined in 5 MRSA §8071-A, sub-§2. The Legislature will review and act upon the rule. Please be advised that the Unit may not finally adopt or implement the rule until the Legislature has completed its review.

A legislative resolve will be prepared and introduced in the House of Representatives to allow for legislative review and action upon the provisionally adopted rule during this regular session of the Legislature. Once the resolve has been referred to the legislative committee having jurisdiction, the committee will review the rule at a meeting called for that purpose. As part of the review the committee may ask agency representatives to appear before it to explain certain provisions of the rule or answer questions. In addition the committee may request additional information from the agency that may assist the committee in its review.

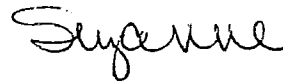
Notice of Receipt of Provisional Rules  
December 30, 2020  
Page 2

The committee review process will include application of the review criteria of 5 MRSA §8072, sub-§4 to the rule. The committee may hold a public hearing and work sessions on the bill as it does with other bills and your agency will be notified of the committee hearing or work sessions as they are scheduled.

The resolve regarding the provisional rule will not contain the text of the rule; you should anticipate receiving requests from the public for copies of the rule if the resolve is advertised for public hearing by the committee.

In the meantime, if you have questions, please contact Janet Stocco or Samuel Praver, Legislative Analysts, in the Office of Policy and Legal Analysis. Janet and Samuel staff the Joint Standing Committee on Veterans and Legal Affairs and may be reached at 287-1670.

Sincerely,



Suzanne M. Gresser  
Executive Director

cc: Michael Sauschuck, Commissioner, Maine Department of Public Safety  
Don Wismer, Rules Coordinator, Secretary of State's Office  
Distribution List-Provisional Rules

## Summary of Rule

AGENCY: **16-633** - Department of Public Safety (DPS), **Gambling Control Unit**

**BASIS STATEMENT / CONCISE: These rules are to comply with changes in state law under 8 MRS ch. 33. Establishes rules for Fantasy Sports Contests to include eligibility for a license, registration of players, player account activity and monitoring, enforcement of self-exclusion and data and report requirements for both players and the state.**

### CHAPTER NUMBERS AND TITLES:

#### **Regulation of Fantasy Contests:**

- Ch. 33**, Introduction
- Ch. 34**, Definitions
- Ch. 35**, License Applications
- Ch. 36**, License Fee and Renewal
- Ch. 37**, Communications and Advertising
- Ch. 38**, Fantasy Contest System Standards
- Ch. 39**, Registration of Fantasy Contestants
- Ch. 40**, Enforcement of Exclusion
- Ch. 41**, Fantasy Contestant Funds and Required Reserves
- Ch. 42**, Licensee Records, Annual Reporting and Audits
- Ch. 43**, Complaints and Disciplinary Actions
- Ch. 44**, Fairness of Fantasy Contests

PROPOSED RULE NUMBERS: **2018-P249** thru **P260** (*New chapters*)

THESE RULES WILL NOT HAVE A FISCAL IMPACT ON MUNICIPALITIES.

STATUTORY AUTHORITY: 8 MRS §1102(D); 8 MRS §1106(1)

PUBLIC HEARING: December 12, 2018 at 9:00 a.m. in the Gambling Control Board Meeting Room, 45 Commerce Drive, Augusta ME 04333

DEADLINE FOR COMMENTS: December 24, 2018

AGENCY CONTACT PERSON / SMALL BUSINESS IMPACT INFORMATION / RULEMAKING LIAISON:  
Milton Champion, Executive Director, Gambling Control Unit, 45 Commerce Drive - Suite 3, Augusta ME 04333-0087. Telephone: (207) 626-3900. Email: [Milton.F.Champion@Maine.gov](mailto:Milton.F.Champion@Maine.gov) .

WEBSITE: <http://www.maine.gov/dps/GambBoard/index.html>



STATE OF MAINE  
Department of Public Safety  
Gambling Control Unit  
87 State House Station  
Augusta, Maine  
04333-0087

JANET T. MILLS  
GOVERNOR

MICHAEL J. SAUSCHUCK  
COMMISSIONER

MILTON F. CHAMPION  
EXECUTIVE DIRECTOR

October 24, 2020

BASIS STATEMENT

Ms. Katie Johnson  
Attorney General's Office  
6 State House Station  
Augusta, ME 04333

Dear Ms. Johnson,

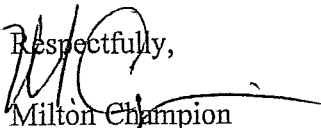
This is a new set of rules to comply with changes in the state law concerning the operation of fantasy contests under 8 M.R.S. Chapter 33. The director of the Gambling Control Unit must adopt rules for the proper enforcement and administration of Chapter 33 under 8 M.R.S. § 1106.

The rules established for fantasy contests shall include:

- Definitions of terms used throughout the rules;
- Licensing application requirements;
- Licensing fees and requirements for renewals;
- Monitoring and system standards;
- Communications and advertising requirements;
- Eligibility requirements for establishing accounts;
- Requirements for funds and required reserves;
- Annual reporting and audit requirements; and
- Process for complaints and disciplinary actions.

The Legislature passed without comment or changes to the proposed language in Bill LD 1320 and it became law without the Governor's signature on August 2, 2017.

Respectfully,

  
Milton Champion  
Executive Director  
Gambling Control Unit



# 128th MAINE LEGISLATURE

LD 1320

LR 30(03)

## An Act To Regulate and Tax Sports Fantasy League Activities in Maine

Fiscal Note for Bill as Engrossed with:

C "A" (S-314)

Committee: Veterans and Legal Affairs

### Fiscal Note

|                                   | FY 2017-18 | FY 2018-19 | Projections<br>FY 2019-20 | Projections<br>FY 2020-21 |
|-----------------------------------|------------|------------|---------------------------|---------------------------|
| <b>Net Cost (Savings)</b>         |            |            |                           |                           |
| General Fund                      | (\$10,071) | (\$7,206)  | (\$4,256)                 | (\$1,217)                 |
| <b>Appropriations/Allocations</b> |            |            |                           |                           |
| General Fund                      | \$99,929   | \$102,794  | \$105,744                 | \$108,783                 |
| <b>Revenue</b>                    |            |            |                           |                           |
| General Fund                      | \$110,000  | \$110,000  | \$110,000                 | \$110,000                 |
| Other Special Revenue Funds       | \$15,000   | \$5,000    | \$5,000                   | \$5,000                   |

### Correctional and Judicial Impact Statements

Establishes new civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.

### Fiscal Detail and Notes

This bill includes General Fund appropriations to the Gambling Control Board (GCB) within the Department of Public Safety of \$99,929 in fiscal year 2017-18 and \$102,794 in fiscal year 2018-19 for one Information System Security Analyst position and related costs to assist in the regulation of fantasy sports contests. The bill authorizes the GCB to collect a fee for initial registration and annual licenses from fantasy contest operators. The initial registration fees are expected to result in a one-time Other Special Revenue Funds revenue of \$10,000 in fiscal year 2017-18, annual license fees are expected to generate annual Other Special Revenue Fund revenues of \$5,000 starting in fiscal year 2017-18. The bill also requires fantasy contest operators with annual revenue greater than \$100,000 to distribute 10% of gross fantasy contest revenues to the General Fund. This distribution is estimated to increase General Fund revenue by \$110,000 annually.

16 DEPARTMENT OF PUBLIC SAFETY

633 GAMBLING CONTROL UNIT

Chapter 33: INTRODUCTION

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§1. The Act to establish additional duties of the director of the Gambling Control Unit to license and regulate fantasy contests was enacted by the Legislature and made law without the Governor's signature on August 2, 2017. The director of the Gambling Control Unit, created by that portion of the Public Law codified at Maine Revised Statutes, Title 8, chapter 31, is charged with the responsibility of adopting rules necessary to administer and enforce the laws applicable to fantasy contests.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:

Chapter 34: DEFINITIONS

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§1. The following words and terms shall have the following meanings unless the context indicates otherwise.

1. "Auto draft" means athlete selection offered by a fantasy contest operator that does not involve any input or control by a fantasy contestant.
2. "Beginner fantasy contestant" has the same meaning as set forth in 8 M.R.S. §1101 (1).
3. "Clearly and conspicuously" means:
  - A. To disclose in such a way that the disclosure is made through the same means through which the communication is presented;
  - B. Requires that if the communication is visual, the disclosure is placed in close proximity to relevant claims, expressed in clear and plain language and syntax, and the size, contrast, location, and other characteristics stand out from other visual elements so that the disclosure is prominently displayed and unavoidable;
  - C. Requires that the disclosure is repeated if necessary and is visible for a sufficient duration;
  - D. Requires that if the communication is audio, the disclosure is presented at adequate volume and cadence; and
  - E. Requires that the disclosure is made before the fantasy contestant decides to accept an offer.
4. "Commissioner" means the Commissioner of Public Safety.
5. "Director" has the same meaning as set forth in 8 M.R.S. §1101(2).
6. "Daily fantasy contest" is any fantasy contest other than a season-long fantasy contest, as defined herein.
7. "Entry fee" has the same meaning as set forth in 8 M.R.S. § 1101(3)
8. "Fantasy contest" has the same meaning as set forth in 8 M.R.S. §1101(4).
9. "Fantasy contestant" has the same meaning as set forth in 8 M.R.S. §1101 (5).
10. "Fantasy contest operator" has the same meaning as set forth in 8 M.R.S. §1101 (6).
11. "Gross fantasy contest revenues" has the same meaning as set forth in 8 M.R.S. §1101 (7).
12. "Highly experienced fantasy contestant" has the same meaning as set forth in 8 M.R.S. §1101 (8).

13. “Minor” means any person who has not attained 18 years of age.
14. “Platform” has the same meaning as set forth in 8 M.R.S. §1101 (9).
15. “Private contest” means a fantasy contest established among contestants known to each other and the terms and any prize of which are not established by a fantasy contest operator.
16. “Prize” means an award, incentive, promotion, or anything of value, including, but not limited to, money, contest credits, merchandise, or admission to another fantasy contest.
17. “Script” means a list of commands that a fantasy-contest-related computer program can execute and that are created by fantasy contestants, or by third parties for the use of fantasy contestants, to automate processes on a fantasy contest platform.
18. “Season-long fantasy contest” means a fantasy contest offered by a fantasy contest operator that is conducted over an entire sports season.
19. “Session” means a period of time from log-in to log-out by a fantasy contestant.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:



Chapter 35: LICENSE APPLICATION

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- §1. An applicant for a license to act as a fantasy contest operator shall apply on forms specified by the director. In addition to the information required by 8 M.R.S. §§ 1103-1104, an applicant must provide the following information:
1. The physical address of the applicant's principal place of business and the designated contact person for the applicant including a telephone number, address, and email address for that contact.
  2. Disclosure of ownership interests. A disclosure of the true ownership interests of the fantasy contest operator as follows:
    - A. The names, addresses, phone numbers, email addresses and dates of birth of the applicant's directors and officers;
    - B. The percentages of shares of stock, if any, held by each person named in subparagraph (a) above;
    - C. For limited liability companies (hereinafter, "LLC"), including professional LLCs, provide the full name, address, date of birth and telephone number of each member of the LLC having an ownership interest of five percent (5%) or more of the LLC. If the member is not a natural person, disclose the true ownership of the member (and successive levels of ownership, if necessary) until a natural person or another corporate entity is disclosed. If another corporate entity is disclosed, provide a complete disclosure of that corporate entity's ownership in accordance with the specific rules for that entity contained herein (and successive levels of ownership, if necessary).
    - D. For general, limited, or limited liability partnerships, provide the full name, address, date of birth and telephone number of each partner having an ownership interest of five percent (5%) or more of the partnership. If the partner is not a natural person, disclose the true ownership of the partner (and successive levels of ownership if necessary) until a natural person, or another corporate entity, is disclosed. If another corporate entity is disclosed, provide a complete disclosure of that corporate entity's ownership in accordance with the specific rules for that entity contained herein (and successive levels of ownership, if necessary).
    - E. For a corporation, provide the full name, address, date of birth and telephone number of any natural person or entity having an ownership interest of five percent (5%) or more of the outstanding shares of the corporation. If a corporate entity is disclosed, provide a complete disclosure of that corporate entity's ownership in accordance with the specific rules for that entity contained herein (and successive levels of ownership, if necessary).

- F. The intent of this rule is to require, to the fullest extent that the individual or corporate structure of an applicant allows, disclosure of names of individual natural persons who have a significant ownership interest in a fantasy contest operator.
3. Copies of the applicant's audited financial statements for the preceding three (3) fiscal years and a copy of internally prepared financial statements for the current fiscal year as of the close of the most recent fiscal quarter;
  4. A copy of the Certificate of Authority to do business in the State of Maine, if incorporated outside of Maine;
  5. Copies of any trade name registrations filed by the applicant;
  6. Completed notarized affirmation and consent and authorization to release information to complete a criminal background check on: the applicant; any officer or director of the applicant; and any partner or shareholder who has an ownership interest of five percent (5%) or more in the fantasy contest operator or who is involved in the day to day management of fantasy contests and operations;
  7. A copy of the minimum internal controls adopted to verify the identity of individuals seeking to establish accounts;
  8. The applicant's minimum internal controls related to protection of fantasy contestant deposits, including minimum internal controls related to the following:
    - A. Prevention of unauthorized withdrawals from fantasy contestant accounts by fantasy contest operators or others;
    - B. Reporting and responding to complaints by a fantasy contestant regarding the handling of the fantasy contestant's account; and
    - C. Closure of fantasy contestant accounts.
  9. The applicant's minimum internal controls related to account monitoring to prevent cheating, manipulation or misuse of accounts, including minimum internal controls related to the following:
    - A. Detection and prevention of misuse of proxy servers;
    - B. Location verification;
    - C. Prevention of the use of unauthorized 3<sup>rd</sup> party scripts; and
    - D. Prevention of the use of pre-selected teams.
  10. The applicant's minimum internal controls relating to fantasy contests for beginner fantasy contestants, including minimum internal controls related to the following:

- A. Explanation of contest play;
  - B. Identification of highly experienced fantasy contestants, including symbols or other identification used;
  - C. Recommending beginner-fantasy-contestant-only contests and low-cost private contests;
  - D. Percentage of contests open only to beginner fantasy contestants and that exclude highly experienced fantasy contestants;
  - E. Prevention of access by highly experienced fantasy contestants to contests for beginner fantasy contestants directly or through a proxy; and
  - F. Suspension of accounts of highly experienced fantasy contestants who participate in contests for beginner fantasy contestants only.
11. The applicant's minimum internal controls relating to the locking of or making any changes to fantasy contests;
12. The applicant's minimum internal controls relating to ensuring that winning outcomes of fantasy contests reflect the relative knowledge and skill of the fantasy contestant and that winning outcomes of fantasy contests are determined primarily by accumulated statistical results of the performance of human competitors in sports events;
13. The applicant's minimum internal controls relating to not allowing the deposit of funds into an account that is derived from the extension of credit by affiliates or agents of the fantasy contest operator. For purposes of this subsection, credit shall not be deemed to have been extended where, although funds have been deposited into an account, the operator is awaiting actual receipt of such funds in the ordinary course of business.
14. The applicant's minimum internal controls that:
- A. Make clear that the funds in the segregated account do not belong to the fantasy contest operator and are not available to creditors other than the fantasy contestant whose funds are being held;
  - B. Prevent commingling of funds in the segregated account with other funds including, without limitation, funds of the operator;
  - C. Discloses the number of entries that a fantasy contestant may submit to each fantasy contest and provide reasonable steps to prevent fantasy contestants from submitting more than the allowable number;
  - D. Prohibit fantasy contestants from submitting more than one entry in any fantasy contest involving 12 entries or fewer;
  - E. Prohibit fantasy contestants from submitting more than 2 entries in any fantasy contest involving more than 12 entries but fewer than 36 entries;

- F. Prohibit fantasy contestants from submitting more than 3 entries in any fantasy contest involving 36 or more entries but fewer than 101 entries;
  - G. Prohibit, unless otherwise provided by M.R.S. Title 8, Chapter 33, fantasy contestants from submitting more than 3% of all entries in any fantasy contest involving more than 100 entries;
  - H. Permit unlimited entries in no more than 3% of all fantasy contests; the entry fee for such contests must be a minimum of \$150;
  - I. Inform fantasy contestants of state and federal tax obligations on certain winnings;
  - J. Include policies and procedures relating to assistance available for compulsive behavior; and
  - K. Include policies and procedures relating to implementation and enforcement of self-limitations and self-exclusions requested by fantasy contestants.
15. Internal controls must be approved by the director prior to licensure.
16. Review of the applicant's application will not begin until receipt of the application fee.
17. The application, as well as other documents submitted to the director or on behalf of the applicant for purposes of determining the qualifications of the applicant, shall be sworn to or affirmed before a notary public. If any form or document is signed by an attorney for the applicant, the signature shall certify that the attorney has read the forms or documents and that, to the best of his or her knowledge, information and belief, based on diligent inquiry, the contents of the form or documents so supplied are true.
18. To the extent, if any, that the applicant becomes aware that information of a material nature supplied in the application or otherwise supplied by the applicant or on the applicant's behalf, becomes outdated, inaccurate or incomplete, the applicant shall so notify the director in writing within 10 business days and shall at that time supply the information necessary to correct the timeliness, inaccuracy or incompleteness of the information.
19. The applicant shall cooperate fully with the director and the Gambling Control Unit with respect to the background investigation of the applicant.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:

16 DEPARTMENT OF PUBLIC SAFETY

633 GAMBLING CONTROL UNIT

Chapter 36: LICENSE FEE AND RENEWAL

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- §1. An applicant for a fantasy contest operator license shall submit a one-time application fee of \$1,000.00. If the application fee exceeds the actual cost of processing the application and performing background investigations, the excess amount shall be applied to the license fee, if the applicant is issued a license, or reimbursed to an applicant not subject to a license fee in accordance with 8 M.R.S. § 1103(6) or to an applicant that was not issued a license.
- §2. The initial and renewal fees for a license for a fantasy contest operator shall be in accordance with 8 M.R.S. § 1103(6).
- §3. Licenses must be renewed annually, and the renewal fee must be included with the renewal application.
- §4. Any person seeking to renew its application to be a licensed fantasy contest operator shall submit a renewal application, in a form available from the director, no later than 60 days prior to the expiration of the prior year's license.
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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:

Chapter 37: FANTASY CONTEST MONITORING

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- §1. Fantasy contest operators shall not allow fantasy contestants to use proxy servers for the purpose of misrepresenting their identity or location in order to engage in fantasy contests.
- §2. In order to prevent the unauthorized use of a fantasy contestant's account, a fantasy contest operator offering fantasy contests must use technologically and commercially reasonable measures to reasonably detect the physical location of a fantasy contestant attempting to access his or her account and to monitor for simultaneous logins to a single account from geographically inconsistent locations. A fantasy contest operator may use a third party to provide these location services.
1. The geolocation service or application must be able to perform as follows:
    - A. Detect location notwithstanding the use of a proxy server;
    - B. Detect location when routing through a Virtual Private Network (VPN);
    - C. Use Global Positioning System (GPS) data when the fantasy contestant seeks access from a mobile device or network and prohibit users from entering contests or depositing funds if GPS is not turned on;
    - D. Check location each time the fantasy contestant attempts to enter a contest or make a deposit;
    - E. Utilize a mechanism to alert the fantasy contest operator if an account is being accessed from geographically inconsistent locations. For example, technology that alerts the fantasy contest operator that login locations were identified that would be impossible to travel between in the time reported.
  2. The fantasy contest operator should implement procedures to disable account access if the fantasy contest operator receives information that an account is being accessed from a location that indicates that there is a likelihood of unauthorized or improper access.
- §3. All advertising and promotions by fantasy contest operators shall comply with the following standards:
1. Inaccurate or misleading statements regarding the likelihood of winning are prohibited.
  2. The targeting of minors is prohibited. Depictions of persons under the age of 18 engaged in fantasy contests are prohibited.

3. Advertising must include a statement explaining that individuals under 18 years of age cannot participate in fantasy contests. Advertising must also include a link to a local, state or federal hotline for assistance with problem gambling.
4. Advertising must not state or imply an endorsement by a minor.
5. Advertising must not specifically target fantasy contestants who have a gambling addiction, including fantasy contestants who have requested to be restricted from play on a fantasy contest operator's platform.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:

**Chapter 38: FANTASY CONTEST ACCOUNT ACTIVITY**

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**§1. Fantasy Contest accounts**

1. Fantasy contestant accounts on the fantasy operator's platform must be secured against invalid access or updates using methods approved by the director.
2. All deposit, withdrawal, transfer or adjustment transactions are to be maintained in an audit log.
3. A deposit into a fantasy contestant's account made via a credit card transaction or other methods which can produce a sufficient audit trail must not be available for participation until such time as the funds are received from the issuer or the issuer provides an authorization number indicating that the funds are authorized.
4. Positive fantasy contestant identification, a fantasy contest operator shall use commercially and technologically reasonable means to independently verify the identity of the individual before the withdrawal of any monies held by the fantasy contest operator can be made.
5. An account is considered to be inactive if the fantasy contestant has not logged into the account for at least three (3) years. The fantasy contest operator's published Terms and Conditions must address how the operator will handle any remaining funds in inactive accounts. Inactive accounts containing fantasy contestant funds must be protected against unauthorized access or withdrawal.
6. Fantasy operators must have in place redundancies or other data-recovery protections enabling them to recover records of monetary transactions.
7. Payments from an account are to be paid (including funds transfer) directly to an account with a financial institution in the name of the fantasy contestant or made payable to the fantasy contestant and forwarded to the fantasy contestant's address or through another method that is not prohibited by Federal or State law. The name and address are to be the name and address as held in fantasy contestant registration details.
8. A fantasy contest operator must have in place security or authorization procedures to ensure that only authorized adjustments can be made to fantasy contestant accounts.
9. It shall not be possible to transfer funds between two fantasy contestant accounts.
10. A fantasy contest operator must disclose on its platform the number of entries an individual fantasy contestant may submit to each fantasy contest and the maximum number of entries allowed by the fantasy contest operator for each fantasy contest.
11. A fantasy contest operator must provide information on its platform on how to participate and compete in fantasy contests, including an explanation of fantasy contest play and how to identify a highly-experienced fantasy contestant.



12. A fantasy contest operator's system must identify a highly-experienced fantasy contestant by means of a symbol or other identifier easily viewed by fantasy contestants engaged in the fantasy contest on the platform.
13. The use of third-party scripts or third-party scripting programs for any fantasy contest is prohibited.
14. A fantasy contest operator must implement methods to detect, deter and prevent cheating and improper manipulation of fantasy contests.
15. A fantasy contest operator must develop and offer fantasy contests that are limited to beginner fantasy contestants.
16. A fantasy contest operator must ensure that winning outcomes of fantasy contests reflect the relative knowledge and skill of the fantasy contestant and that winning outcomes of fantasy contests are determined primarily by accumulated statistical results of the performance of human competitors in sports events.
17. A fantasy contest operator must prohibit directors, officers and employees of the fantasy contest operator, and relatives living in the same household as those persons, from participating in a fantasy contest offered or operated by that fantasy contest operator.
18. A fantasy contest operator must prohibit the following individuals from participating in a fantasy contest based on the sport, athletic event or competition in which the individual participates or is otherwise associated:
  - A. An athlete or individual who participates or officiates in a game, league, athletic event or competition that is the subject of a fantasy contest; or
  - B. A sports agent, team employee, referee or umpire or league official associated with a sport or athletic event that is the subject of a fantasy contest.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:

**Chapter 39: REGISTRATION OF FANTASY CONTESTANTS**

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**§1. Registering as a Fantasy contestant**

1. Before allowing a fantasy contestant to finish creating an account, a fantasy contest operator must collect:
  - A. The name of the individual; and
  - B. The individual's date of birth showing the individual is 18 years of age or older.
2. No fantasy contestant shall be permitted to deposit or withdraw any funds until the individual has conducted the identity verification required by Subsection C.) and provided the following information:
  - A. The physical address where the individual resides; and
  - B. Any other information required by the fantasy contest operator to independently verify the identity of the fantasy contestant making a deposit or withdrawal.
3. A fantasy contest operator shall use commercially and technologically reasonable means to independently verify the identity of the individual making a deposit or a withdrawal. Third party entities may be used to verify the identity of a fantasy contestant.
4. A fantasy contest operator shall limit each fantasy contestant to one active and continuously used account.
5. Fantasy contest operators shall implement rules and clearly and conspicuously publish procedures to terminate all accounts of any fantasy contestant that establishes or seeks to establish more than one username or more than one account, whether directly or by use of another person as a proxy. Such procedures may allow a fantasy contestant that establishes or seeks to establish more than one username or more than one account, for one time only, to retain one account provided that the operator investigates and makes a good faith determination that the fantasy contestant's conduct was not intended to obtain a competitive advantage.
6. A fantasy contestant who has established more than one username or account will not be entitled to retain any winnings earned from any account during the time period that more than one username or account is active. A fantasy contest operator must require that any subsequent action by a fantasy contestant of establishing or seeking to establish more than one username or more than one account will result in the fantasy contest operator prohibiting that fantasy contestant from establishing another future account with that fantasy contest operator within a period of two years.
7. If a fantasy contest operator determines that the information provided by a fantasy contestant to make a deposit or process a withdrawal is inaccurate or incapable of verification, or violates its minimum internal controls, the fantasy contest operator shall, within 10 calendar days, require

the submission of additional information that can be used to verify the identity of the fantasy contestant. If such information is not provided or does not result in verification of the fantasy contestant's identity, the fantasy contest operator shall:

- A. Immediately suspend the fantasy contestant's account and not allow the fantasy contestant to participate in any further contests;
  - B. Retain any winnings attributable to the fantasy contestant;
  - C. Refund the balance of deposits made to the account to the source of such deposit or by issuance of a check; and
  - D. Deactivate the account.
8. A fantasy contestant must be provided with (or create) an electronic identifier such as a digital certificate or an account description and a password to log into an account on a fantasy contest platform.
  9. Fantasy contest operators must allow fantasy contestants to change their passwords.
  10. Where a fantasy contestant has forgotten his or her password, the fantasy contest operator must provide a secure process for the re-authentication of the fantasy contestant and the retrieval and/or resetting of the password. Any and all processes for dealing with lost fantasy contestant user IDs or passwords must be clearly described to the fantasy contestant and sufficiently secure.
  11. When a fantasy contestant logs into the fantasy contest platform, either the most recent time and date of login must be displayed, or the fantasy contestant must be able to access information listing the time and date of any fantasy contest entries and any withdrawals or deposits that have taken place in his or her account within the last 30 days.
  12. Each fantasy contest must have a unique identifier assigned by the fantasy contest operator which distinguishes entries into that fantasy contest from entries into other contests.
  13. A fantasy contest operator must deny account registration to any person who enters a birthdate which indicates that the person is a minor under the age of 18. If the licensee discovers that a person under 18 years of age has accessed the platform as a potential or active fantasy contestant, the licensee shall immediately refund any entry fees or other deposits made by the person under 18 years of age.
  14. A fantasy contest operator shall implement commercially and technologically reasonable procedures to prevent access to fantasy contests by minors on its fantasy contest platform, including but not limited to independent verification of age using information obtained from independent sources outside of the fantasy contestant seeking to open an account. Third-party services may be used to verify the age of a fantasy contestant.
  15. Any statements by fantasy contest operators that are inaccurate or misleading regarding the likelihood of winning are prohibited.
  16. A fantasy contest operator shall clearly and conspicuously display, on web pages that are accessed prior to registering for a fantasy contest, a statement explaining that individuals

under 18 years of age cannot participate in a fantasy contest.

17. Fantasy contest operators must prominently display the following provisions in any Terms of Service, Terms of Use and/or Privacy Policies on the fantasy contest operator's website:
- A. That the information provided to the fantasy contest operator by the fantasy contestant to register is accurate;
  - B. That the fantasy contest operator must specify the handling of entry fees where the entry of a fantasy contestant is cancelled;
  - C. That the fantasy contest operator must specify the handling of entry fees for contests that are voided or abandoned;
  - D. That the fantasy contest operator must state that no individual under 18 years of age is permitted to participate in fantasy contests;
  - E. That the fantasy contest operator must describe the method by which fantasy contestants will be notified of updates to the terms and conditions and privacy policy;
  - F. That the fantasy contestant has been informed, and acknowledges, that as an authorized fantasy contestant he or she is prohibited from allowing any other person access to or use of their fantasy contest account; and
  - G. That the fantasy contestant acknowledges that his or her account activity and winnings may be disclosed to the director and any other applicable state or federal entities.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:

**Chapter 40: FANTASY CONTESTANT FUNDS AND REQUIRED RESERVES**

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**§1. Funds and Required Reserves**

1. A fantasy contest operator shall neither extend credit to a fantasy contestant nor allow the deposit of funds into an account that is derived from the extension of credit by affiliates or agents of the operator. For purposes of this subsection, credit shall not be deemed to have been extended where, although funds have been deposited into an account, the operator is awaiting actual receipt of such funds in the ordinary course of business.
2. A fantasy contest operator shall maintain a reserve account that exceeds the amount of entry fees and any other funds on deposit. The reserve may not be used for operational activities.
3. Reserve funds may take the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond or any combination thereof, and must be in an amount that exceeds the total balances of the fantasy contestants' accounts with the fantasy contest operator.
4. "Cash equivalents" include commercial paper, treasury bills, short term government bonds, marketable securities, and money market holdings.
5. The reserve agreements must reasonably protect the reserve against claims of the fantasy contest operator's creditors other than the authorized fantasy contestants for whose benefit and protection the reserve is established, and must provide that:
  - A. The reserve is established for the benefit and protection of authorized fantasy contestants to the extent fantasy contest operator holds money in fantasy contestant accounts for fantasy contestants;
  - B. The reserve must not be released, in whole or in part, except upon written instruction or approval of the director. The reserve must be available within sixty (60) days of the written demand or written instruction. If the reserve is released to the director, he or she may take such steps as necessary to affect the proper distribution of the funds, including an action in court;
  - C. The fantasy contest operator may receive income accruing on the reserve, without obtaining permission from the director, but any such income must be reported to the director;
  - D. The fantasy contest operator has no interest in or title to the reserve; and
  - E. Maine law and this section govern the agreements and the fantasy contest operator's interest in the reserve and income accruing on the reserve.
6. If the reserve is maintained in the form of a bond, it must be written by a bona fide insurance carrier. Reserves in the form of cash, cash equivalents, and irrevocable letter of credit must be

established pursuant to a written agreement between the fantasy contest operator and the financial institution or insurance carrier, but the fantasy contest 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 contest operator and the intermediary, and the intermediary and the financial institution or insurance carrier.

7. The proposed reserve arrangement is not effective for purposes of complying with 8 M.R.S. § 1104(4)(B) until the director's approval has been obtained. However, fantasy contest operators operating in the State of Maine pursuant to 8 M.R.S. § 1103(9) on the date these rules become effective shall be provided no less than ninety (90) days from that effective date to submit a proposed reserve arrangement to the director. Nothing in this section shall require a fantasy contest operator operating in the State of Maine pursuant to 8 M.R.S. § 1103(9) on the date these rules become effective to suspend operations while awaiting director approval of the proposed reserve arrangement.
8. The reserve arrangement agreements may be amended only with the prior written approval of the director.
9. Each fantasy contest operator shall submit to the director all information and copies of documents verifying its proposed reserve arrangements, including copies of the agreements described herein. The director shall determine whether the agreements and arrangements satisfy the purposes and requirements of this section, may require appropriate changes, or withhold approval if they do not, and shall notify the fantasy contest operator of the determination in writing.
10. In the event that a fantasy contest operator's reserve account does not exceed the total balance of the fantasy contestants' accounts with the fantasy contest operator, the fantasy contest operator must, within twenty-four (24) hours, notify the director of this fact by electronic mail or writing and must indicate the steps the fantasy contest operator has taken to remedy the deficiency.
11. The director may require that the reserve be increased to correct any deficiency or for good cause to protect authorized fantasy contestants.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:

Chapter 41: LICENSEE RECORDS, ANNUAL REPORTING AND AUDITS

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- §1. A fantasy contest operator shall maintain records of fantasy contestant accounts, for a period of five (5) years, and make these records available for inspection at the request of the director or his/her designee.
- §2. A fantasy contest operator shall submit an annual report to the director pursuant to 8 M.R.S. § 1104(5).
- §3. The following additional information shall be made available to the director upon his/her request, for a period of five (5) years:
1. The number of fantasy contestants in Maine who requested a deposit limit increase;
  2. The number of deposit limit increases granted to fantasy contestants in Maine;
  3. The number of accounts in which a fantasy contestant in Maine was identified as a minor and the action taken as a result;
  4. The number and amount of refunds given to fantasy contestants in Maine; and
  5. The number of fantasy contestants in Maine who requested additional limitations on their accounts and the action taken as a result.
- §4. The director may conduct a financial audit of any fantasy contest operator licensed in the State of Maine to ensure compliance with M.R.S. Title 8, Chapter 33, at any time.
- §5. The fantasy contest operator must provide to the director a copy of the audit report required by 8 M.R.S. § 1104(4)(C) by June 30th of each year.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:

16 DEPARTMENT OF PUBLIC SAFETY

633 GAMBLING CONTROL UNIT

Chapter 42: COLLECTION OF PAYMENTS

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§1. All fees, fines, charges, and penalties authorized by Maine Revised Statutes, Title 8, chapter 33, and rules adopted pursuant to Maine Revised Statutes, Title 8, chapter 33, must be submitted to the director or as directed by the director as they are due. Payment shall be in the form of certified check, cashier's check or money order made out to the "Treasurer State of Maine/Gambling Control Unit." In lieu of these payment forms, the director or State may accept an electronic wire transfer to a designated account.

§1. A fantasy contest operator that is licensed pursuant to Maine Revised Statutes, Title 8, chapter 33 and that has gross fantasy contest revenues of \$100,000 or greater must submit to the director on an annual basis 10 percent of gross fantasy contest revenues, including any revenues earned while operating pending approval of an application submitted to the director as described in 8 M.R.S. § 1103(9), for deposit to the General Fund. A fantasy contest operator must submit such revenues to the director at the time of the renewal of a fantasy contest operator license.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106

EFFECTIVE DATE:



**Chapter 43: COMPLAINTS AND DISCIPLINARY ACTIONS**

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This rule establishes procedures for the investigation and resolution of complaints received by the director. This rule should be read in conjunction with the statutory provisions for adjudicatory proceedings in the *Maine Administrative Procedure Act*. The rule helps to ensure that the investigation and resolution of complaints are handled in an expeditious and procedurally fair manner.

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**§1. Complaints**

1. A fantasy contest operator must make contact information for complaints and dispute resolution, as well as a link to the Gambling Control Unit's website, readily accessible to fantasy contestants through the communication channel used to access the fantasy contest platform.
2. A fantasy contest operator must implement a system within the platform that enables fantasy contestants to log complaints and disputes on a 24/7 basis. Fantasy contest operators must respond to the complaint within 48 hours of receipt of the initial complaint.
3. A fantasy contest operator must maintain records of all correspondence relating to a fantasy contestant's complaint and/or dispute for a period of five years.
4. All complaints that are submitted to the director must be in writing. The director may initiate a complaint alleging any ground for disciplinary action.
5. The director may investigate complaints in accordance with 8 M.R.S. §1102(E).
6. The director must review all complaints and investigative files and, in the director's discretion, may consult with an Assistant Attorney General assigned to the Gambling Control Unit.

**§2. Disciplinary Action**

1. Following this review and any consultation, the director may take any of the following actions:
  - A. Take adverse action against an application or license in a written decision that informs the licensee of the right to appeal the decision to the commissioner;
  - B. Dismiss the complaint or otherwise close the investigation. Dismissal may be appropriate when the complaint alleges conduct that is not a violation of Maine Revised Statutes, Title 8, chapter 33 or the rules adopted pursuant to that chapter, is factually unfounded, or is of insufficient gravity to warrant further action. Notice of dismissal must be sent to any complainants; or
  - C. Request additional investigation.

2. If, based upon the information obtained from the investigation, the director determines that the complaint is or may be true and the violation is of sufficient gravity to warrant further action, the director may take adverse action against an application or license in a written decision that informs the licensee of the right to appeal the decision to the commissioner for a final decision in accordance with 8 M.R.S. § 1103(8).
  - A. The written decision shall state the alleged violation, the statute or rule believed to have been violated, and the proposed resolution, and shall inform the licensee that the licensee has the right to request a hearing before the commissioner.
  - B. Service of the decision is complete upon mailing to the party or the party's attorney using the last known address, or upon in-hand delivery to the recipient or the recipient's office.
  - C. The licensee must file a written request for hearing within 30 days of receipt of the decision that informs the licensee of the opportunity for hearing. The request is considered filed when received by the director by mail, in-hand delivery or electronic mail.
  - D. Failure to make a timely request for hearing shall be a waiver of any right to a hearing and may result in the proposed action becoming final without further hearing, in accordance with 5 M.R.S. §9053(3), if the notice informed the licensee of the possibility of default.
3. In the event of a hearing, the provisions of the *Administrative Procedure Act*, Maine Revised Statutes, Title 5, chapter 375, subchapter 4 will govern.
4. For each violation of Maine Revised Statutes, Title 8, chapter 33, the rules adopted pursuant to that chapter, or conditions of licensure, the director may take one or more of the following actions in accordance with Maine Revised Statutes, Title 8, chapter 33:
  - A. Deny an application for licensure;
  - B. Refuse to renew a license;
  - C. Limit or restrict a license;
  - D. Suspend a license;
  - E. Revoke a license;
  - F. Impose a fine of up to \$1,000.00 per violation;
  - G. Impose a fine not to exceed \$5,000.00 for violations arising out of the same transaction or occurrence; and
  - H. Impose costs of investigation and hearing.

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STATUTORY AUTHORITY: 8 M.R.S. §§ 1102(1)(D), 1106  
EFFECTIVE DATE: