Emergency Rules

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 1—Organization and Administration

EMERGENCY AMENDMENT

11 CSR 45-1.100 Waivers and Variances. The commission is amending section (1).

PURPOSE: This amendment adds references to a new ***Code of State Regulations*** *chapter and a new* ***Missouri Revised Statutes*** *section.*

EMERGENCY STATEMENT: This emergency amendment is necessary to address statutory sections enacted in HB 1941 (2016), specifically, sections 313.900, 313.910, 313.920, 313.930, 313.940, 313.950, 313.960, 313.970, 313.990, 313.1000, 313.1010, and 313.1020, which became law on August 28, 2016. This legislation requires the Missouri Gaming Commission (MGC) to regulate and license the management, operation, and conduct of fantasy sports contests and participants.

This bill created the Missouri Fantasy Sports Consumer Protection Act and requires the operators of websites engaged in fantasy sports contests in Missouri to apply for and receive annual licenses from the Missouri Gaming Commission (MGC) prior to operation. It includes a provision for "grandfathering in" fantasy sports contest operators already operating in Missouri prior to April 1, 2016, by allowing them to continue operating until they receive or are denied a license. We estimate this will affect seven (7) operators who will be charged an annual operation fee for net revenue received. This is estimated to generate six hundred thousand dollars ($600,000) per year for the Gaming Proceeds for Education Fund. Those operators must submit an application for licensure prior to October 1, 2016. Once licensed, HB 1941 requires operators to segregate players' funds, maintain a reserve account for the benefit and protection of those funds, establish procedures that will prevent unauthorized withdrawals or commingling of the player and operator funds, as well as provide procedures for a player to report a compromised account. The bill also requires licensed operators to contract with a Certified Public Accountant to conduct an annual financial and internet website audit to ensure compliance with the law. The licensed operators will also have to pay an annual operation fee. Licensed operators may not issue credit to players and may not allow multiple accounts for one (1) player. It requires licensed operators to comply with certain requirements relative to the contests they offer, including requiring that all winning outcomes be determined by accumulating statistical results of fully completed events, forbidding players to select athletes through an auto-draft process, forbidding the licensed operator from awarding any prize to the winner of or athletes in the underlying competition, and not allowing the contest to be based on collegiate, high school, or youth athletics or performances. Licensed operators must also verify each player's age and state of residence as well as maintain and provide access to online self-exclusion forms and processes. The bill also sets parameters for the disclosure of information and documents.

HB 1941 grants the MGC the authority to oversee all licensed operators and provides the MGC investigatory, licensing, and rulemaking powers. The submitted regulations were drafted to provide procedures for licensing fantasy sports contest operators to comply with the statute that became effective August 28, 2016. The rules also provide a consistent regulatory framework from which all of the fantasy sports contest operators can operate. We met with two (2) large operators and two small operators prior to drafting these rules and we solicited comments from three (3) of those companies. We received comments from all three (3) operators and made changes as appropriate and consistent with our statutory duties. Players will benefit from consistent standards as well, in that they can be secure in knowing that all licensed fantasy sports contest operators accepting wagers from Missouri residents comply with and operate within the same framework; these regulations will provide a level playing field for all parties involved.

Specifically, this emergency amendment adds reference to a new ***Code of State Regulations*** *chapter and a new* ***Missouri Revised Statutes*** *section to include regulatory procedures regarding waivers and variances requested by fantasy sports contest applicants and licensed operators.*

As such, the MGC finds an immediate threat to the public welfare and a compelling governmental interest to regulate Fantasy Sports Contests which requires this emergency action. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the ***Missouri*** *and* ***United States Constitutions****. The Missouri Gaming Commission believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 29, 2016, becomes effective September 8, 2016, and expires March 6, 2017.*

(1) The commission may waive or grant a variance from the provisions of Title 11, Division 45, Chapters 1–*[31]* **40** of the *Code of State Regulations* upon a licensee's written application, if the commission determines that the waiver or variance is in the best interests of the public. Any waiver or variance granted pursuant to this section constitutes an order of the commission pertaining to gaming, violation of which subjects a licensee to discipline under section 313.812.14(2) **and 313.1010**, RSMo.

AUTHORITY: section[s] 313.004, ***RSMo Supp. 2014, [and] section*** *313.805, RSMo [2000]* ***Supp. 2013, and section 313.1010, HB 1941, Second Regular Session, Ninety-eighth General Assembly, 2016****. Original rule filed Aug. 27, 2004, effective March 30, 2005. Emergency amendment filed Aug. 29, 2016, effective Sept. 8, 2016, expires March 6, 2017. An emergency amendment and a proposed amendment covering this same material will be published in the October 3, 2016, issue of the* ***Missouri Register****.*