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Overview

Daily Fantasy Sports (DFS) is a game in which a player selects a virtual team of real-world athletes and competes against other virtual teams in a variety of game formats. A DFS operator assigns points to the statistical output of the athletes in a real-world competition, and those points determine game results.

There is a dispute as to whether DFS constitutes illegal gambling under a variety of federal and state laws, including Minnesota's. Minnesota essentially prohibits wagering money on games of chance (even when such games are accompanied by an element of skill) and sports-bookmaking, which references the skill/chance distinction. However, state law also provides an exception from these prohibitions for bona fide determinations of skill. Arguments supporting the legality of DFS point out that DFS is primarily a game of skill because the outcome is determined by the skill each player has in selecting a team of virtual athletes that can outperform an opponent's team; critics argue that since the outcomes are determined by unpredictable athletic performances, the games should be considered games of chance.

H.F. 1415 authorizes DFS under state law and establishes regulatory requirements related to consumer protection, registration, background checks, audits, civil penalties, and enforcement.

Section

1 Consumer protection; fantasy sports.

Subd. 1. Fantasy game operation requirements. Requires a daily fantasy sports (DFS) operator to implement commercially reasonable procedures to:

- Prevent employees and their family members from participating in DFS games;
- Prevent the disclosure of confidential information to third parties that could affect how a person plays DFS;
- Prevent a DFS operator from playing in their own games;
- Provide that the outcome of a DFS game is not based on a score, point spread, or performance of a single team or combination of teams, or on the performance of an individual athlete;
- Prohibit athletes and officials from playing in a DFS game that is the subject of a DFS game and prohibit agents, team employees, and officials from playing in any DFS game;
- Verify that a DFS player is at least 18 years old;
- Provide information to DFS players about responsible play;
- Allow individuals to irrevocably restrict themselves from playing DFS;
- Disclose and enforce the limit on how many times a DFS player may enter a game;
- Provide account information to a DFS player regarding their deposits, withdrawals, entry fees, bonuses, and promotions;
- Allow individuals to restrict themselves from playing DFS;
- Segregate player funds from operational funds or maintain a reserve;
- Ensure that prizes are deposited into a player's account within 72 hours;
- Ensure that players can withdraw funds within five days of request;
- Prominently publish the rules for each DFS game that has an entry fee;
- Prohibit the use of scripts;
- Create procedures for complaints; and
- Provide information about the terms of promotional offers.

Subd. 2. Definitions. Provides that the definition of most terms in this section have the meaning given in section 4 of this bill, except for "commissioner," which means the commissioner of public safety, and "script," which means a computer program that automates processes on a DFS operator's website or application.

Subd. 3. Registration.

- Requires a DFS operator to register with the Department of Public Safety and provide information regarding ownership, tax identification numbers, and proof of financial security;

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- Sets the annual deadline for registration at January 15 and allows the commissioner of public safety to refuse or revoke a registration;
- Sets the annual fee at \$1,500; and
- Authorizes criminal background checks for the game operator, its finances, and for officers, directors, or stakeholders with more than a 15 percent ownership interest in the DFS operator.

Subd. 4. Audits. Requires a DFS operator to conduct an audit through a third party and submit the audit to the commissioner for examination and inspection by November 1.

Subd. 5. Civil penalty. Provides for a civil penalty of not more than \$1,000 for each violation and not more than \$50,000 for violations arising out of the same transaction or occurrence. Authorized the commissioner to bring the civil action.

Subd. 6. Criminal penalty. Creates a gross misdemeanor offense for an unregistered person who accepts an entry fee. Prohibits any person who commits the offense from registering as a game operator for five years. Permits existing operators to accept fees without registration until the date that they file a registration statement or 60 days after the commissioner makes a form suitable for registration available to the public, whichever is earlier. The criminal penalty applies to violations that occur on or after August 1, 2018.

Subd. 7. Investigations and powers. Authorizes the commissioner of public safety to investigate violations and to conduct searches and seizures.

2 Recovery of money lost. Clarifies that money lost playing DFS is not subject to the law allowing recovery of gambling losses.

3 Commitments for gambling debt void. Clarifies that void gambling debts do not include those relating to fantasy sports.

4 Fantasy games. Creates the following definitions for DFS:

- “Athlete” means an individual participating in a real world sporting contest or event;
- “Entry fee” means the amount charged by a DFS operator to a player to participate in a DFS game;
- “Commissioner” means the commissioner of public safety;
- “Confidential information” means information about a DFS game obtained due to a person’s employment;
- “Fantasy sports game” means a simulated sports game where players compete against each other, in which the value of all prizes is known in advance, the outcome of a game is determined by the skill of the players, and outcomes of games are based on the accumulated statistical results of individuals and athletes;
- “Game operator” means a person who offers a platform to play DFS, administers one or more games with an entry fee, and awards prizes of value; and

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- “Script” means a list of commands that can execute to automate processes on a fantasy game platform.

Prohibits a game operator from offering DFS games based on collegiate, high school, or youth athletic events.

Clarifies that a DFS game offered by a registered operator is a bona fide contest of skill under Minnesota’s illegal gambling laws and that such a game does not violate the state’s prohibition on illegal gambling.

Clarifies that Minnesota’s illegal gambling laws do not prohibit a registered game operator from offering a DFS game.