

# Mississippi Gaming Commission Regulations

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## **TITLE 13: GAMING**

### **Part 15: FANTASY CONTESTS**

#### **Part 15 Chapter 1: DEFINITIONS & FEES**

Rule 1.1 *Definitions*. The terms defined in the Mississippi Gaming Control Act have the same meaning in these regulations as they have in that Act, unless the context otherwise requires. As used in these regulations, the following terms have the following definitions, unless the context requires otherwise.

- (a) “Act” means the Fantasy Contest Act.
- (b) “Authorized internet website” means an internet website or any platform operated by a licensed operator.
- (c) “Commission” means the Mississippi Gaming Commission.
- (d) “Cash prize” means winnings in the form of cash or cash equivalents and includes credits to a player's account with an operator.
- (e) “Confidential information” means information related to the play of a fantasy contest by fantasy contest players obtained as a result of or by virtue of a person's employment.
- (f) “Entry fee” means cash or a cash equivalent that is required to be paid to an operator to participate in a fantasy contest.
- (g) “Executive Director” means the Executive Director of the Mississippi Gaming Commission.
- (h) “Fantasy contest” or “contest” means a fantasy or simulated game or contest in which:
  - 1. Winning outcomes reflect the relative knowledge and skill of the players and are determined predominately by accumulated statistical results of the performance of individuals, including individual athletes in the case of actual sporting events; and
  - 2. Winning outcomes are not based on the score, point spread, or any performance of any single actual sports team or combination of such teams or solely on any single performance of an individual athlete in any single actual sporting event.
- (i) “Operator” or “fantasy contest operator” means a person or entity that offers fantasy contests, requires an entry fee, and offers a cash prize.
- (j) “Highly experienced player” means a person who has either:
  - 1. Entered more than one thousand (1,000) contests offered by a single fantasy contest operator; or
  - 2. Won more than three (3) sports prizes of one thousand dollars (\$1000.00) or more from a single fantasy contest operator.
- (k) “Net revenue” means for all fantasy contests, the amount equal to the total entry fees collected from all participants entering such fantasy contests, less winnings paid to participants in the contests, multiplied by the resident percentage.
- (l) “Player” means a person who participates in a fantasy contest offered by an operator.
- (m) “Prize” means anything of value including, but not limited to, cash or a cash equivalent, contest credits, merchandise, or admission to another contest in which a prize may be awarded.
- (n) “Registered player” means a person registered pursuant to this section to participate in a fantasy contest on an authorized internet website.
- (o) “Resident percentage” means the percentage, rounded to nearest one-hundredth of a percent (.01%), of the total entry fees collected from Mississippi residents divided by the total entry fees collected from all players, regardless of the players' locations, of the fantasy contests.

(p) "Script" means a list of commands that a fantasy-sports-related computer program can execute to automate processes on a fantasy sports contest platform.

(q) "Sporting event" means an athletic game or team competition in which an individual athlete's performance is used to accumulate statistical results.

Source: *Miss. Code Ann.* § 97-33-303.

#### Rule 1.2 *Fees.*

(a) For the privilege of conducting fantasy contests in Mississippi, licensees shall pay to the Department of Revenue a fee equivalent to eight percent (8%) of the operator's net Mississippi revenue.

(b) "Net Mississippi revenue" means the amount equal to the total of all fantasy contest entry fees that an operator collects from all players, less the total of all sums paid out as cash prizes to all fantasy contest players, multiplied by the location percentage for Mississippi.

(c) "Location percentage" means, for each fantasy contest, the percentage of the total entry fees collected from players located in Mississippi, divided by the total entry fees collected by that operator from all players in fantasy contests, rounded to the nearest one-hundredth of a percent (0.01%).

(d) The Commissioner of Revenue shall assess and collect all taxes, fees, interest, penalties, damages, and fines imposed by this chapter, and is hereby empowered to promulgate rules and regulations to administer collection of the amounts due. The operator must register with the Department of Revenue as a fantasy operator before commencing operations with Mississippi players. Records or other documents submitted by or on behalf of the licensee to the Mississippi Gaming Commission or Executive Director shall be made available to the Commissioner of Revenue or his authorized agent upon written request.

(e) The license fees levied by this chapter shall be due quarterly for the periods January through March, April through June, July through September, and October through December, and payable on or before the twentieth (20<sup>th</sup>) day of the month next succeeding the month in which the fees accrue. The licensee shall make a return showing the net Mississippi revenue and compute the fee due for the period.

(f) All administrative provisions of the sales tax law, and amendments thereto, including those which provide for collection and administrative appeals procedures, fix damages, penalties and interest for failure to comply with the provisions of said sales tax law, and all other requirements and duties imposed upon any licensee or taxpayer, shall apply to all persons liable for taxes, fees and all other monies imposed. However, fines or other assessments levied by the Mississippi Gaming Commission or the Executive Director will not be considered due and payable until thirty (30) days after final determination of the fines or assessments. The Commissioner of Revenue shall exercise all power and authority and perform all duties with respect to licensees or taxpayers under this chapter as are provided in the sales tax law, except where there is conflict, then the Fantasy Contest Act shall control.

(g) Determination and assessment of taxes, fees, licenses, interest, penalties, damages, and fines by the Commissioner of Revenue, the Executive Director, or the Mississippi Gaming Commission shall be prima facie correct.

(h) Fees authorized under this section shall be deposited into the State General Fund as authorized by law.

Source: *Miss. Code Ann.* § 97-33-317.

## **Part 15 Chapter 2: LICENSING**

Rule 2.1 *Technical Review*. A fantasy contest operator shall obtain an initial, technical review and recommendation for approval from an independent testing laboratory licensed by the Commission. That written recommendation shall certify that the DFS Operator is in compliance with Mississippi Code Annotated Section 97-33-301 et. seq. and these regulations. Any subsequent changes to the system initially approved must also be reviewed by an independent testing laboratory within thirty (30) days of implementation.

Source: *Miss. Code Ann.* § 97-33-301.

Rule 2.2 *Licensing*. An operator offering fantasy contests to be played by persons in Mississippi must obtain a license from the Commission to conduct fantasy contests within this state if the operator's total player roster for all fantasy contests over the course of any calendar year consists of one hundred (100) or more members of the general public.

Source: *Miss. Code Ann.* § 97-33-305(1).

(a) An operator offering fantasy contests to be played by persons in this state must obtain a license from the Commission to conduct fantasy contests within this state.

(b) An operator offering fantasy contests within this state must be lawfully conducting business within this state.

(c) An application for licensure shall be made to the Executive Director on forms furnished by the Executive Director and in accordance with the rules of the Commission. The application shall include:

1. The name of the proposed licensee;
2. The location of his place or places of business;
3. The names of employees and interested individuals with substantial control of the Fantasy Contest Operator as determined by the Executive Director.
4. Complete information and details with respect to the individuals selected to be investigated by the Executive director, including antecedents, habits, character, business activities, financial affairs, criminal history and business associates, covering at least a ten (10) year period immediately preceding the date of the application;
6. Evidence of compliance with *Miss. Code Ann.* § 97-33-305(2); and
7. Such other information and details as the Commission or Executive Director may require in order to discharge their duties properly.

(d) An application for a license to conduct fantasy contests shall not be granted unless the application has satisfied the Commission that:

1. The applicant has adequate business probity, competence, and experience; and
2. The proposed financing of the entire operation is:
  - i. Adequate for the nature of the proposed operation; and
  - ii. From a suitable source. Any lender or other source of money or credit which the Commission finds does not meet the standards set forth in this subsection may be deemed unsuitable.

(e) An application for a license to conduct fantasy contests constitutes a request for a determination of the general character, integrity, and ability to participate or engage in, or be associated with, fantasy contests of any individual associated with the applicant. Any written or oral statement made in the course of an official proceeding of the Commission or the Executive Director or any testimony of a witness testifying under oath that is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

(f) The Commission, in its discretion, may grant a license to a corporation that has complied with the provisions of Miss. Code Ann. §§ 97-33-301 through 97-33-317.

(g) The Commission, in its discretion, may grant a license to a limited partnership that has complied with the provisions of Miss. Code Ann. §§ 97-33-301 through 97-33-317.

(h) No limited partnership, except one whose sole limited partner is a publicly traded corporation that is licensed by the Commission, or business trust or organization, or other association of a quasi-corporate character is eligible to receive or hold any license under Miss. Code Ann. §§ 97-33-301 through 97-33-317 unless all persons having any direct or indirect interest therein of any nature whatsoever, whether financial, administrative, policymaking, or supervisory, are individually qualified to be licensed under the provisions of Miss. Code Ann. §§ 97-33-301 through 97-33-317.

(i) Only a licensee under the Gaming Control Act may offer on-premises fantasy contests in the licensee's licensed gaming establishment. An operator offering on-premises fantasy contests under this subsection must verify that a fantasy contest player is twenty-one (21) years of age or older.

(j) Each applicant for licensure as a fantasy contest operator shall pay an application fee of Five Thousand Dollars (\$5,000.00). A license is valid for three (3) years.

(k) An applicant shall pay all or any part of those fees and costs of investigation of such applicant as may be determined by the Executive Director.

(l) A person, firm, corporation, association, agent, or employee violating the Fantasy Contest Act shall be subject to a civil penalty of not more than One Thousand Dollars (\$1,000.00) for each separate violation not to exceed Fifty Thousand Dollars (\$50,000.00).

Source: Miss. Code Ann. § 97-33-309.

Source: *Miss. Code Ann.* § 97-33-307.

## **Part 15 Chapter 3: CONTEST RULES**

### *Rule 3.1 Contest Rules.*

(a) Daily fantasy sports operators must have procedures in place to allow individuals to restrict themselves from entering a fantasy contest upon request and provide reasonable steps to prevent the person from entering fantasy contests offered by the operator.

(b) Advertisements for contests and prizes offered by an operator shall not target prohibited participants, minors, or self-excluded persons.

(c) The values of all prizes and awards offered to winning players must be established and made known to the players in advance of the contest.

(d) Operators must offer introductory procedures for players that are prominently displayed on the main page of the operator's platform to explain contest play and how to identify a highly experienced player.

(e) Operators must identify all highly experienced players in every fantasy contest by a symbol attached to the players' usernames, or by other easily visible means, on all platforms supported by the operator.

(f) An operator shall not offer contests based on the performance of participants in collegiate, high-school, or youth sports events.

(g) Representations or implications about average winnings from contests shall not be unfair or misleading. Such representations shall include, at a minimum:

1. The median and mean net winnings of all players participating in contests offered by the operator; and
2. The percentage of winnings awarded by the operator to highly experienced players participating in contests offered by the operator within the preceding calendar year.

(h) Operators shall prohibit the use of third-party scripts or scripting programs for any contest and ensure that measures are in place to deter, detect, and prevent cheating to the extent reasonably possible. Cheating includes collusion and the use of cheating devices, including use of software programs that submit entry fees or adjust the athletes selected by a player.

(i) Operators must segregate fantasy contest player funds from operational funds. The licensee shall submit a proposal for approval.

(j) Operators must restrict the number of entries submitted by a single player for any contest as follows:

1. An operator shall not allow a player to submit more than one (1) entry in a contest involving twelve (12) or fewer players;
2. If the number of players in a contest is more than twelve (12) but fewer than thirty-seven (37), an operator shall not allow a player to submit more than two (2) entries;
3. If the number of players in a contest is at least thirty-seven (37) but no more than one hundred (100), an operator shall not allow a player to submit more than three (3) entries; and
4. In any contest involving more than one hundred (100) players, an operator shall not allow a player to submit more than the lesser of:
  - i. Three percent (3%) of all entries; or
  - ii. One hundred fifty (150) entries.

(k) For all advertised fantasy contests, the operator must prominently include information about the maximum number of entries that may be submitted for that contest.

(l) An operator may establish fantasy contests in which there is no restriction on the number of entries, if those contests constitute less than two percent (2%) of the total number of contests it offers and if the operator clearly discloses:

1. That there are no limits on the number of entries by each player in the contest; and
2. That the cost of participating in such a contest is Fifty Dollars (\$50.00) or more per entry.

(m) Operators must disclose the number of entries that a player may submit to each fantasy contest and provide reasonable steps to prevent players from submitting more than the allowable number.

(n) Operators must reasonably provide players with an opportunity to file a Patron Dispute with the Mississippi Gaming Commission pursuant to Miss. Code Ann. § 313 and Miss. Code Ann. § 75-76-157 through 75-76-173.

Source: *Miss. Code Ann. § 97-33-305.*

## **Part 15 Chapter 4: OPERATIONS**

Rule 4.1 *Player Disputes.* Disputes over winnings are to be resolved under the procedures set forth in Miss. Code Ann. § 75-76-157 through 75-76-173 and conducted in accordance with 13 Mississippi Administrative Code Part 3 Chapter 8 Rule 8.1.

(a) A licensed operator shall keep a record of contests for at least thirty (30) days and, in the event of a dispute, insure that all relevant data is preserved and transmitted to the Mississippi Gaming Commission

Source: *Miss. Code Ann. § 97-33-313*

Rule 4.2 *Player Registration.* Operators may collect player information only to the extent needed to

- (a) Verify a player's age;
- (b) Verify that the player is not excluded; and
- (c) Determine whether the player is located in Mississippi.

Source: *Miss. Code Ann. § 97-33-315.*

Rule 4.3 *Cash Reserve and Segregated Account Requirements.*

(a) The licensed operator shall maintain in the form of cash or cash equivalents, payment processor reserves and receivables, an irrevocable letter of credit, a bond, or a combination thereof, in the amount of the deposits made to the accounts of Mississippi fantasy contest players for the benefit and protection of the funds held in such accounts. For purposes of this rule cash equivalents are investments with an original maturity of three (3) months or less.

(b) Funds held in player accounts of Mississippi residents shall be protected as set forth herein. A fantasy contest operator shall maintain a reserve in the form of cash, cash equivalents, or a combination thereof to protect player funds in one (1) of the following ways:

1. Cash Reserve

- i. The amount of the reserve shall be equal to, at a minimum, the sum of all registered players' funds held in player accounts of Mississippi residents.
- ii. The reserve agreements must reasonably protect the reserve against claims of the operator's creditors other than the authorized players for whose benefit and protection the reserve is established, and must provide the following:
  - 1. The reserve shall be established and held in trust for the benefit and protection of authorized players to the extent the licensed operator holds money in player accounts for players;
  - 2. The reserve must not be released, in whole or in part, except upon written instruction or approval of the Commission. The reserve must

be available within ninety (90) days of written demand or written instruction. If the reserve is released to the Commission, the Commission may interplead the funds in the Hinds County Circuit Court for distribution to the authorized players for whose protection and benefit the account was established and to the other such persons as the court determines are entitled thereto, or shall take such other steps as necessary to effect the proper distribution of the funds, or may do both;

3. The licensed operator may receive income accruing on the reserve, without obtaining permission from the Commission; and
  4. The licensed operator has no interest or title to the reserve.
- iii. The reserve must be held or issued by a federally insured financial institution and must be established pursuant to a written agreement between the licensed operator and the financial institution.
  - iv. The proposed reserve arrangement is not effective until the Commission's written approval has been obtained.
  - v. The reserve arrangement agreements may be amended only with the prior written approval of the commission; and
2. Special Purpose Segregated Account with a Separate Corporate Entity
- i. A fantasy contest operator may establish a special purpose segregated account that is maintained and controlled by a properly constituted corporate entity that is not the fantasy contest operator and whose governing board includes one (1) or more corporate directors who are independent of the fantasy contest operator and of any corporation related to or controlled by the fantasy contest operator.
  - ii. The special purpose segregated account with a separate corporate entity must hold, at a minimum, the sum of all authorized player funds held in player accounts of Mississippi residents for use in fantasy contests.
  - iii. The special purpose segregated account must reasonably protect the funds against claims of the operator's creditors other than the authorized players for whose benefit and protection the special purpose segregated fund is established, and must provide that:
    1. The segregated account is established and held for the benefit and protection of authorized players;
    2. The fantasy contest operator may receive income accruing on the segregated account. However, the fantasy contest operator has no interest in or title to the segregated account; and
    3. The funds in the segregated account held for the benefit of Mississippi residents may only be distributed for the following:
      - i. Payment to players upon completion of fantasy contests or otherwise for the reconciliation of player accounts;
      - ii. For income earned on the account, to the fantasy contest operator;
      - iii. To the Commission in the event that the fantasy contest operator's license expires, is surrendered, or is otherwise revoked. The Commission may interplead the funds in the



Hinds County Circuit Court for distribution to the authorized players for whose protection and benefit the account was established and to other such persons as the court determines are entitled thereto, or shall take such other steps as necessary to effect the proper distribution of the funds, or may do both; or

- iv. As authorized in writing in advance by any agreement approved by the Commission.
  - iv. The corporate entity must require a unanimous vote of all corporate directors to file bankruptcy.
  - v. The corporate entity must obtain permission from the Commission prior to filing bankruptcy or entering into receivership.
  - vi. The corporate entity must have articles of incorporation that prohibit commingling of funds with that of the fantasy contest operator except as necessary to reconcile the accounts of players with sums owed by those players to the fantasy contest operator.
  - vii. The corporate entity must be restricted from incurring debt other than to players pursuant to the rules that govern their accounts for contests.
  - viii. The corporate entity must be restricted from taking on obligations of the fantasy contest operator other than obligations to players pursuant to the rules that govern their accounts for contests.
  - ix. The corporate entity must be prohibited from dissolving, merging, or consolidating with another company without the written approval of the Commission while there are unsatisfied obligations to fantasy contest players.
- (c) If, at any time, the licensed operator's total available cash and cash equivalent reserve is less than the amount required, the licensee shall notify the Commission of this deficiency within forty-eight (48) hours.
- (d) Each licensed operator shall continuously monitor and maintain a record of all player deposits and its cash reserves to ensure compliance with the cash reserves requirement.
- (e) The licensed operator shall provide the Commission with documentation of both the amount of deposits in players' accounts and the amount in cash reserves as of the last day of each month by the fifteenth (15<sup>th</sup>) day of the following month.

Source: Miss. Code Ann. § 97-33-305(2)(k)

## **Part 15 Chapter 5: AUDITS & INVESTIGATIONS**

Rule 5.1 *Procedures*. A fantasy contest operator offering fantasy contests with an entry fee in this state shall comply with audit procedures adopted by the Commission to ensure compliance with this section.

- (a) The Executive Director shall make appropriate investigations:
1. To determine whether there has been any violation of Miss. Code Ann. §§ 97-33-301 through 97-33-317 or of any regulations adopted thereunder;
  2. To determine any facts, conditions, practices or matters which he may deem necessary or proper to aid in the enforcement of any such law or regulation;
  3. To aid in adopting regulations;

4. To secure information as a basis for recommending legislation relating to Miss. Code Ann. §§ 97-33-301 through 97-33-317; and
5. To determine annual compliance with Miss. Code Ann. §§ 97-33-301 through 97-33-317.

(b) A fantasy contest operator must annually provide a third-party audit of its operations to the Commission. This audit must be performed to certify to the Commission that the operator is complying with all operational, financial, and technical requirements of the Fantasy Contact Act and these regulations.

(c) A fantasy contest operator must provide audited financial statements to the Commission within ninety (90) days after the last day of the operator's fiscal calendar year.

(d) A fantasy contest operator must comply with any additional audit procedures and requirements that the Commission may prescribe to ensure compliance with applicable laws and regulations.

(e) If after any investigation the Executive Director is satisfied that a license should be limited, conditioned, suspended, or revoked, he shall initiate a hearing by filing a Complaint with the Commission and transmit therewith a summary of evidence in his possession bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the Executive Director to the licensee.

(f) Upon receipt of the Complaint of the Executive Director, the Commission shall review all matters presented in support thereof and shall appoint a hearing examiner to conduct further proceedings.

(g) After proceedings required by Miss. Code Ann. §§ 97-33-301 through 300 97-33-317, the hearing examiner may recommend that the Commission take any or all of the following actions:

1. As to operations at a licensed gaming establishment under Miss. Code Ann. § 97-33-307(5):
  - i. Limit, condition, suspend, or revoke the license of any licensed gaming establishment or the individual license of any licensee without affecting the license of the establishment; and
  - ii. Order an operator to exclude an individual licensee from the operation of the registered business or not to pay the licensee any remuneration for services or any profits, income, or accruals on his investment in the licensed gaming establishment.
2. Limit, condition, suspend, or revoke any license granted to any applicant by the Commission;
3. Fine each licensee for any act or transaction for which Commission approval was required or permitted, as provided in Miss. Code Ann. § 97-33-309.

(h) The hearing examiner shall prepare a written decision containing his recommendation to the Commission and shall serve it on all parties. Any party disagreeing with the hearing examiner's recommendation may ask the Commission to review the recommendation within ten (10) days of service of the recommendation. The Commission may hold a hearing to consider the recommendation whether there has been a request to review the recommendation or not.

(i) If the Commission decides to review the recommendation, it shall give notice of that fact to all parties within thirty (30) days of the recommendation and shall schedule a hearing to review the recommendation. The Commission's review shall be de novo but shall be based upon the evidence presented before the hearing examiner. The Commission may remand the case to the hearing examiner for the presentation of additional evidence upon a showing of good cause why

the evidence could not have been presented at the previous hearing. If the Commission does not decide to review the recommendation within thirty (30) days, the recommendation becomes the final order of the Commission. If the Commission limits, conditions, suspends, or revokes any license, or imposes a fine, it shall issue its written order therefor after causing to be prepared and filed the hearing examiner's written decision upon which the order is based.

(j) Any limitation, condition, revocation, suspension, or fine is effective until reversed upon judicial review, except that the Commission may stay its order pending a rehearing or judicial review upon such terms and conditions as it deems proper.

(k) Judicial review of an order or decision of the Commission may be had to the Chancery Court of the First Judicial District of Hinds County, Mississippi, as a case in equity.

(l) A license is automatically revoked if the individual is convicted of a felony in any court of this state, another state, or the United States or if the individual is convicted of a crime in any court of another state or the United States which, if committed in this state, would be a felony. An appeal from the conviction shall not act as a supersedeas to the revocation required by this subsection.

Source: *Miss. Code Ann.* §§ 97-33-305(4) and 97-33-315.