

ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017
COMMITTEE STATEMENT
LB469

Hearing Date: Monday January 30, 2017
Committee On: General Affairs
Introducer: Larson
One Liner: Adopt the Fantasy Contests Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 6 Senators Blood, Harr, Krist, Larson, Quick, Wayne
Nay: 2 Senators Riepe, Brasch
Absent:
Present Not Voting:

Verbal Testimony:

Proponents:
Steve Brubaker

Sean Ostrow
Derek Hein
Ryan McIntosh

Representing:
The Small Businesses of Fantasy Sports Trade Association
FanDuel
DraftKings
Village of Palmyra

Opponents:
Denise Brown
Loretta Fairchild
Pat Loontjer
Nate Grasz

Representing:
Self
self
GWGL
Nebraska Family Alliance

Neutral:
Chad Schroeder
David Geier
Deb Hammond

Representing:
Self
NE Gamblers Assistance Program
GAP - Providers

Written Testimony:

Proponents:

Representing:

Opponents:
David Wimmer

Representing:
Gambling With the Good Life

Neutral:

Representing:

Summary of purpose and/or changes:

LB 469 adopts the Fantasy Contests Act by codifying in statute how fantasy contest operators are to be licensed and regulated in Nebraska. A typical contest involves a participant competing against other participants by paying an entry

fee and then assembling his or her fantasy team by selecting actual professional players. As the selected professional players finish their actual games, their game statistics are converted into points. This can be a daily or season-long contest. The participant with the most team points wins the contest. LB 469 prohibits fantasy contests based on the performance of collegiate, high school, or youth athletic events.

In 2006, Congress passed the Uniform Internet Gambling Enforcement Act (UIGEA) in an effort to modernize the Wire Act of 1961. The UIGEA specifically exempts fantasy sports games that meet the following criteria:

(ix) Participation in any fantasy or simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

(III) No winning outcome is based--

(aa) on the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams; or

(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

31 U.S. Code Sec. 5362

LB 469 Sec. 2 reflects the UIGEA requirements by including the following provisions:

(4) Fantasy contest means any online fantasy or simulated game or contest with an entry fee required for participation and in which:

(a) The value of all prizes and awards offered to winning fantasy contest players is established and made known to the fantasy contest players in advance of the fantasy contest;

(b) All winning outcomes reflect the relative knowledge and skill of the fantasy contest players and such outcomes are determined by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and

(c) No winning outcome is based on the score, the point spread, or performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event.

LB 469 also includes a number of consumer protections such as the requirement in Sec. 3, that the fantasy contest operator registers with the Department of Revenue and pays a \$10,000 registration fee.

There is also an annual registration renewal fee of six percent of the fantasy contest operator's gross fantasy contest revenue for the preceding 12 months, not to exceed \$10,000.

Sec. 6 includes additional consumer protections including prohibiting certain individuals who might have confidential information or who may be involved in the actual professional sports such as athletes, coaches and officials. Fantasy contest participants must be at least 19 years old and the operator must provide participants with information on

responsible play and access to information on seeking assistance for compulsive gambling behavior. The operator shall also allow a person to restrict himself or herself from playing upon request. Prevent participants from submitting more than the allowable number of entries. The operator is also required to segregate player funds from operational funds or maintain a reserve that exceeds the amount of player funds on deposit, which cannot be used for operational activities. Unauthorized third-party scripts are prohibited. Independent financial audits are required on an annual basis.

Any person who knowingly violates any provisions of the Fantasy Contests Act shall be liable for a civil penalty of not more than \$1,000 for each violation, not to exceed \$5,000 for violations arising out of the same transaction or occurrence.

Explanation of amendments:

Clarifies the definition of "fantasy sports operator" to include, in addition to a person, "an entity, or the operating division or group of an entity" (page 2, line 24).

Clarifies the definition of "location" to allow for a player's location to be determined through generally accepted technical standards (page 3, line 1).

Instead of a flat \$10,000 registration fee, the committee amendment would set the registration fee at six percent of gross revenue for the preceding 12 months not to exceed \$10,000, or \$1,000, whichever is greater (page 3, line 16).

LB 469 requires the Department of Revenue to adopt and promulgate rules and regulations to implement and administer the Fantasy Contests Act, including, but not limited to, rules and regulations. The committee amendment removes the language "but not limited to"(page 4, line 31).

Inserts language to clarify that the Department rules and regulations applies "solely to the specific group, division, products, services, or offerings of a person or entity that cause the person or entity to meet the definition of a fantasy contest operator and shall not extend to any other group, division, products, services, or offerings of such person or entity" (page 5, line 10).

In LB 469, "(1) as a condition of registration, a fantasy contest operator shall submit evidence satisfactory to the department that the operator has established and implemented or has the ability to implement commercially reasonable procedures for fantasy contests that: . . . (e) provide a fantasy contest player with access to information on responsible play and access to information on seeking assistance for compulsive gambling behavior". The committee amendment strikes the word "gambling" (page 6, line 3).

Permits fantasy contest operators to utilize escrow accounts for segregating fantasy contest player funds from operational funds (page 6, line 23).

Tyson Larson, Chairperson