

## Fantasy Sports Statutes by State

### Arizona

In this chapter, unless the context otherwise requires:

1. “Amusement gambling” means gambling involving a device, game or contest which is played for entertainment if all of the following apply:
  - (a) The player or players actively participate in the game or contest or with the device.
  - (b) The outcome is not in the control to any material degree of any person other than the player or players.
  - (c) The prizes are not offered as a lure to separate the player or players from their money.
  - (d) Any of the following:
    - (i) No benefit is given to the player or players other than an immediate and unrecorded right to replay which is not exchangeable for value.
    - (ii) The gambling is an athletic event and no person other than the player or players derives a profit or chance of a profit from the money paid to gamble by the player or players.
    - (iii) The gambling is an intellectual contest or event, the money paid to gamble is part of an established purchase price for a product, no increment has been added to the price in connection with the gambling event and no drawing or lottery is held to determine the winner or winners.
    - (iv) Skill and not chance is clearly the predominant factor in the game and the odds of winning the game based upon chance cannot be altered, provided the game complies with any licensing or regulatory requirements by the jurisdiction in which it is operated, no benefit for a single win is given to the player or players other than a merchandise prize which has a wholesale fair market value of less than ten dollars or coupons which are redeemable only at the place of play and only for a merchandise prize which has a fair market value of less than ten dollars and, regardless of the number of wins, no

aggregate of coupons may be redeemed for a merchandise prize with a wholesale fair market value of greater than five hundred fifty dollars.

2. "Conducted as a business" means gambling that is engaged in with the object of gain, benefit or advantage, either direct or indirect, realized or unrealized, but not when incidental to a bona fide social relationship.

3. "Crane game" means an amusement machine which is operated by player controlled buttons, control sticks or other means, or a combination of the buttons or controls, which is activated by coin insertion into the machine and where the player attempts to successfully retrieve prizes with a mechanical or electromechanical claw or device by positioning the claw or device over a prize.

4. "Gambling" or "gamble" means one act of risking or giving something of value for the opportunity to obtain a benefit from a game or contest of chance or skill or a future contingent event but does not include bona fide business transactions which are valid under the law of contracts including contracts for the purchase or sale at a future date of securities or commodities, contracts of indemnity or guarantee and life, health or accident insurance.

5. "Player" means a natural person who participates in gambling.

6. "Regulated gambling" means either:

(a) Gambling conducted in accordance with a tribal-state gaming compact or otherwise in accordance with the requirements of the Indian gaming regulatory act of 1988 (P.L. 100-497; 102 Stat. 2467; 25 United States Code sections 2701 through 2721 and 18 United States Code sections 1166 through 1168);  
or

(b) Gambling to which all of the following apply:

(i) It is operated and controlled in accordance with a statute, rule or order of this state or of the United States.

(ii) All federal, state or local taxes, fees and charges in lieu of taxes have been paid by the authorized person or entity on any activity arising out of or in connection with the gambling.

(iii) If conducted by an organization which is exempt from taxation of income under § 43-1201, the organization's records are open to public inspection.

(iv) Beginning on June 1, 2003, none of the players is under twenty-one years of age.

7. "Social gambling" means gambling that is not conducted as a business and that involves players who compete on equal terms with each other in a gamble if all of the following apply:

(a) No player receives, or becomes entitled to receive, any benefit, directly or indirectly, other than the player's winnings from the gamble.

(b) No other person receives or becomes entitled to receive any benefit, directly or indirectly, from the gambling activity, including benefits of proprietorship, management or unequal advantage or odds in a series of gambles.

(c) Until June 1, 2003, none of the players is below the age of majority. Beginning on June 1, 2003, none of the players is under twenty-one years of age.

(d) Players "compete on equal terms with each other in a gamble" when no player enjoys an advantage over any other player in the gamble under the conditions or rules of the game or contest.

### **Discussion on AZ law**

Games of chance, generally

A "game of chance" is any sport or amusement involving physical contest, whether of man or beast, determined entirely or in the main part by mere luck and in which judgment, skill or adroitness have no place or else are thwarted by chance, the character of the game and not the skill or want of skill of the individual player determining whether the game is one of chance or skill.

Amusement gambling

Sports pools, fantasy football, and card and dice games involving a wager are gambling and, when conducted on a liquor-licensed premises, are not eligible for the either the amusement, regulated, or social gambling exclusions; games of skill, such as pool, darts, and intellectual and video games, may be legally permissible, but only if they strictly meet all of the required elements of the amusement gambling exclusion. Op.Atty.Gen. No.198-002, 1998 WL 48550.

**Florida**

F.S.A. § 849.14

849.14. Unlawful to bet on result of trial or contest of skill, etc.

Whoever stakes, bets or wagers any money or other thing of value upon the result of any trial or contest of skill, speed or power or endurance of human or beast, or whoever receives in any manner whatsoever any money or other thing of value staked, bet or wagered, or offered for the purpose of being staked, bet or wagered, by or for any other person upon any such result, or whoever knowingly becomes the custodian or depository of any money or other thing of value so staked, bet, or wagered upon any such result, or whoever aids, or assists, or abets in any manner in any of such acts all of which are hereby forbidden, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**Discussion on FL Law**

Fantasy sports leagues

F.S.A. § 849.14 prohibits the operation of and participation in a fantasy sports league whereby contestants pay an entry fee for the opportunity to select actual professional sports players to make up a fantasy team whose actual performance statistics result in cash payments from the contestants' entry fees to the contestant with the best fantasy team. Florida Op.Atty.Gen. 91-3, Jan. 8, 1991 (1991 WL 528146).

**Hawaii**

HRS § 712-1220

§ 712-1220. Definitions of terms in this part

In this part unless a different meaning plainly is required, the following definitions apply:

“Advance gambling activity”. A person “advances gambling activity” if he engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device, or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. A person advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation. A person advances gambling activity if he plays or participates in any form of gambling activity.

“Bookmaking” means advancing gambling activity by accepting bets from members of the public upon the outcomes of future contingent events.

“Contest of chance” means any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

“Gambling”. A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance,

including but not limited to contracts of indemnity or guaranty and life, health, or accident insurance.

“Gambling device” means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets and other items used in the playing phases of lottery schemes are not gambling devices within this definition.

“Lottery” means a gambling scheme in which:

- (a) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones; and
- (b) The winning chances are to be determined by a drawing or by some other method based on an element of chance; and
- (c) The holders of the winning chances are to receive something of value.

“Mutuel” means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

“Player” means a person who engages in gambling solely as a contestant or bettor.

“Profit from gambling activity”. A person “profits from gambling activity” if he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

“Social gambling” is defined in section 712-1231.

“Something of value” means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service or entertainment.

## Illinois

720 ILCS 5/28-1

5/28-1. Gambling

§ 28-1. Gambling.

(a) A person commits gambling when he or she:

(1) knowingly plays a game of chance or skill for money or other thing of value, unless excepted in subsection (b) of this Section;

(2) knowingly makes a wager upon the result of any game, contest, or any political nomination, appointment or election;

(3) knowingly operates, keeps, owns, uses, purchases, exhibits, rents, sells, bargains for the sale or lease of, manufactures or distributes any gambling device;

(4) contracts to have or give himself or herself or another the option to buy or sell, or contracts to buy or sell, at a future time, any grain or other commodity whatsoever, or any stock or security of any company, where it is at the time of making such contract intended by both parties thereto that the contract to buy or sell, or the option, whenever exercised, or the contract resulting therefrom, shall be settled, not by the receipt or delivery of such property, but by the payment only of differences in prices thereof; however, the issuance, purchase, sale, exercise, endorsement or guarantee, by or through a person registered with the Secretary of State pursuant to Section 8 of the Illinois Securities Law of 1953,<sup>1</sup> or by or through a person exempt from such registration under said Section 8, of a put, call, or other option to buy or sell securities which have been registered with the Secretary of State or which are exempt from such registration under Section 3 of the Illinois Securities Law of 1953<sup>2</sup> is not gambling within the meaning of this paragraph (4);

(5) knowingly owns or possesses any book, instrument or apparatus by means of which bets or wagers have been, or are, recorded or registered, or

knowingly possesses any money which he has received in the course of a bet or wager;

(6) knowingly sells pools upon the result of any game or contest of skill or chance, political nomination, appointment or election;

(7) knowingly sets up or promotes any lottery or sells, offers to sell or transfers any ticket or share for any lottery;

(8) knowingly sets up or promotes any policy game or sells, offers to sell or knowingly possesses or transfers any policy ticket, slip, record, document or other similar device;

(9) knowingly drafts, prints or publishes any lottery ticket or share, or any policy ticket, slip, record, document or similar device, except for such activity related to lotteries, bingo games and raffles authorized by and conducted in accordance with the laws of Illinois or any other state or foreign government;

(10) knowingly advertises any lottery or policy game, except for such activity related to lotteries, bingo games and raffles authorized by and conducted in accordance with the laws of Illinois or any other state;

(11) knowingly transmits information as to wagers, betting odds, or changes in betting odds by telephone, telegraph, radio, semaphore or similar means; or knowingly installs or maintains equipment for the transmission or receipt of such information; except that nothing in this subdivision (11) prohibits transmission or receipt of such information for use in news reporting of **sporting** events or contests; or

(12) knowingly establishes, maintains, or operates an Internet site that permits a person to play a game of chance or skill for money or other thing of value by means of the Internet or to make a wager upon the result of any game, contest, political nomination, appointment, or election by means of the Internet. This item (12) does not apply to activities referenced in items (6) and (6.1) of subsection (b) of this Section.

(b) Participants in any of the following activities shall not be convicted of gambling:

(1) Agreements to compensate for loss caused by the happening of chance including without limitation contracts of indemnity or guaranty and life or health or accident insurance.



(2) Offers of prizes, award or compensation to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the owners of animals or vehicles entered in such contest.

(3) Pari-mutuel betting as authorized by the law of this State.

(4) Manufacture of gambling devices, including the acquisition of essential parts therefor and the assembly thereof, for transportation in interstate or foreign commerce to any place outside this State when such transportation is not prohibited by any applicable Federal law; or the manufacture, distribution, or possession of video gaming terminals, as defined in the Video Gaming Act, by manufacturers, distributors, and terminal operators licensed to do so under the

### **Discussion on IL Law**

Internet daily fantasy sports, acts constituting gambling

Internet daily fantasy sports contests offered by FanDuel and DraftKings constitute gambling under 720 ILCS 5/28-1 of the Illinois Criminal Code. 2015 Ill. Atty. Gen. Op. 15-006 (Ill.A.G.), 2015 WL 9694249.

### **K.S.A. 21-6403 through**

21-6403. Gambling; definitions

As used in K.S.A. 21-6403 through 21-6409, and amendments thereto:

(a) "Bet" means a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

(1) Bona fide business transactions which are valid under the law of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities, and agreements to compensation for loss

caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance;

(2) offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the bona fide owners of animals or vehicles entered in such a contest;

(3) a lottery as defined in this section;

(4) any bingo game by or for participants managed, operated or conducted in accordance with the laws of the state of Kansas by an organization licensed by the state of Kansas to manage, operate or conduct games of bingo;

(5) a lottery operated by the state pursuant to the Kansas lottery act;

(6) any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act;

(7) tribal gaming;

(8) charitable raffles as defined by K.S.A. 75-5173, and amendments thereto;  
or

(9) a fantasy sports league as defined in this section;

(b) "lottery" means an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. A lottery does not include:

(1) A lottery operated by the state pursuant to the Kansas lottery act; or

(2) tribal gaming;

(c) "consideration" means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration. "Consideration" shall not include sums of money paid by or for:

(1) Participants in any bingo game managed, operated or conducted in accordance with the laws of the state of Kansas by any bona fide nonprofit religious, charitable, fraternal, educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the state of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of

the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of section 501(c) or (d) of the internal revenue code of 1986 and as set forth in K.S.A. 79-4701, and amendments thereto;

(2) participants in any lottery operated by the state pursuant to the Kansas lottery act;

(3) participants in any system of parimutuel wagering managed, operated and conducted in accordance with the Kansas parimutuel racing act; or

(4) a person to participate in tribal gaming;

(d) "fantasy sports league" means any fantasy or simulation sports game or contest in which 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 and that meets the following conditions:

(1) 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;

(2) all winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individual athletes in multiple real-world sporting events; and

(3) no winning outcome is based:

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

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

(e)(1) "gambling device" means any:

(A) So-called "slot machine" or any other machine, mechanical device, electronic device or other contrivance an essential part of which is a drum or reel with insignia thereon, and:

(i) Which when operated may deliver, as the result of chance, any money or property; or

(ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(B) other machine, mechanical device, electronic device or other contrivance including, but not limited to, roulette wheels and similar devices, which are equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and:

(i) Which when operated may deliver, as the result of chance, any money or property; or

(ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

(C) subassembly or essential part intended to be used in connection with any such machine, mechanical device, electronic device or other contrivance, but which is not attached to any such machine, mechanical device, electronic device or other contrivance as a constituent part; or

(D) any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet.

The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

(2) "Gambling device" shall not include:

(A) Any machine, mechanical device, electronic device or other contrivance used or for use by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission or by the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

(B) any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine, a so-called pinball machine, or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and:

(i) Which when operated does not deliver, as a result of chance, any money; or

(ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;

(C) any so-called claw, crane or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or

(D) any machine, mechanical device, electronic device or other contrivance used in tribal gaming;

(f) "gambling place" means any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place;

(g) "tribal gaming" means the same as in K.S.A. 74-9802, and amendments thereto; and

(h) "tribal gaming commission" means the same as in K.S.A. 74-9802, and amendments thereto.

## **Maryland**

### MD Code, Criminal Law, § 12-114

#### § 12-114. Fantasy competitions not subject to gaming prohibitions

##### Fantasy competition defined

(a) In this section, "fantasy competition" includes any online fantasy or simulated game or contest such as fantasy sports, in which:

- (1) participants own, manage, or coach imaginary teams;
- (2) all prizes and awards offered to winning participants are established and made known to participants in advance of the game or contest;
- (3) the winning outcome of the game or contest reflects the relative skill of the participants and is determined by statistics generated by actual individuals (players or teams in the case of a professional sport); and

(4) no winning outcome is based:

(i) solely on the performance of an individual athlete; or

(ii) on the score, point spread, or any performances of any single real-world team or any combination of real-world teams.

Betting, wagering, and gambling prohibitions not applicable

(b) Notwithstanding the provisions of this or any other title, the prohibitions against betting, wagering, and gambling do not apply to participation in a fantasy competition.

## **Mississippi**

Fantasy sports wagering is illegal in the state of Mississippi under current law both on a licensed gaming floor and outside of a licensed gaming floor. Any change to the law would be a matter within the purview of the Legislature.

Miss. Code Ann. § 97-33-1  
**§ 97-33-1. Wagering or betting**

Except as otherwise provided in Section 97-33-8, if any person shall encourage, promote or play at any game, play or amusement, other than a fight or fighting match between dogs, for money or other valuable thing, or shall wager or bet, promote or encourage the wagering or betting of any money or other valuable things, upon any game, play, amusement, cockfight, Indian ball play or duel, other than a fight or fighting match between dogs, or upon the result of any election, event or contingency whatever, upon conviction thereof, he shall be fined in a sum not more than Five Hundred Dollars (\$500.00); and, unless such fine and costs be immediately paid, shall be imprisoned for any period not more than ninety (90) days. However, this section shall not apply to betting, gaming or wagering:

(a) On a cruise vessel as defined in Section 27-109-1 whenever such vessel is in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, and in which the registered voters of the county in which the port is located have not voted to prohibit such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79;

(b) In a structure located, in whole or in part, on shore in any of the three (3) most southern counties in the State of Mississippi in which the registered voters of the county have voted to allow such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79, if:

(i) The structure is owned, leased or controlled by a person possessing a gaming license, as defined in Section 75-76-5, to conduct legal gaming on a cruise vessel under paragraph (a) of this section;

(ii) The part of the structure in which licensed gaming activities are conducted is located entirely in an area which is located no more than eight hundred (800) feet from the mean high-water line (as defined in Section 29-15-1) of the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to Harrison County only, no farther north than the southern boundary of the right-of-way for U.S. Highway 90, whichever is greater; and

(iii) In the case of a structure that is located in whole or part on shore, the part of the structure in which licensed gaming activities are conducted shall lie adjacent to state waters south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the structure is located consists of a parcel of real property, easements and rights-of-way for public streets and highways shall not be construed to interrupt the contiguous nature of the parcel, nor shall the footage contained within the easements and rights-of-way be counted in the calculation of the distances specified in subparagraph (ii);

(c) On a vessel as defined in Section 27-109-1 whenever such vessel is on the Mississippi River or navigable waters within any county bordering on the Mississippi River, and in which the registered voters of the county in which the port is located have not voted to prohibit such betting, gaming or wagering on vessels as provided in Section 19-3-79; or

(d) That is legal under the laws of the State of Mississippi

### Discussion on Mississippi Law

Mississippi Code Section 97-33-1 makes gambling illegal in the state of Mississippi, but it does not apply to licensed gaming activities. The Mississippi Gaming Control Act, Miss. Code Sections 75-76-1 et. seq., outline licensed gaming in Mississippi. Miss. Code Section 75-76-33(3)(a) states that: Notwithstanding any other provision of law, each licensee shall be required to comply with the following regulations:

(a) No wagering shall be allowed on the outcome of any athletic event, nor on any matter to be determined during an athletic event, nor on the outcome of any event, which does not take place on the premises.

\*2 In this instance, a fantasy sports wager is controlled by matters that are determined during an athletic event, and by an event which does not take place on the premises.

### Montana

#### MCA 23-4-202

23-4-202. Penalty for violations of law--authority of board--judicial review

(1)(a) A person holding a race meet or an owner, trainer, or jockey participating in a race meet, except a participant in a match bronc ride or a wild horse ride, without first being licensed under this chapter or a person violating this chapter is guilty of a misdemeanor.

(b) A person operating a parimutuel facility, parimutuel network, or simulcast parimutuel network that conducts fantasy sports league wagering without first being licensed under this chapter or a person violating this chapter is guilty of a misdemeanor.

(c) A person conducting simulcast racing through a simulcast parimutuel network without having entered into a contract with the board is guilty of a misdemeanor.



(2) The board or, upon the board's authorization, the board of stewards of a race meet at which the stewards officiate may exclude from racecourses a person whom the board or board of stewards considers detrimental to the best interest of racing as defined by rules of the board.

(3) As its own formal act or through an act of a board of stewards of a race meet, the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed \$1,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may prohibit application for relicensure for a 2-year period. Fines collected under this subsection must be deposited in the general fund.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed under this chapter. The rules may include provisions for the following:

(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;

(b) stay of a summary imposition of penalty by either the board or board of stewards;

(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

(d) setting aside of up to 3% of exotic wagering on races, including simulcast races, to be deposited in a state special revenue account. The board shall then distribute all funds collected under this subsection (4)(d) to live race purses or for other purposes that the board considers appropriate for the good of the existing horseracing industry.

(e) using 2% of exotic wagering on live racing to be immediately and equally distributed to all purses except stakes races;

(f) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated;

(g) definition of exotic forms of wagering on races to be allowed;

(h) standards for simulcast facilities;

(i) conduct and supervision of simulcast races and parimutuel betting or wagering on simulcast races;

- (j) conduct and supervision of parimutuel facilities, parimutuel networks, simulcast parimutuel networks, and parimutuel wagering on fantasy sports leagues conducted at parimutuel facilities;
  - (k) conduct and supervision of match bronc rides and wild horse rides; and
  - (l) conduct and supervision of advance deposit wagering.
- (5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial review of cases arising under this chapter.

MCA 23-5-801

23-5-801. Fantasy sports leagues defined

As used in this part, a “fantasy sports league” means a gambling activity conducted in the following manner:

- (1) A fantasy sports league consists of a limited number of persons or groups of persons who pay an entrance fee for membership in the league. The entrance fee may include an administrative fee.
- (2) Each league member creates a fictitious team composed of athletes from a given professional sport, such as baseball, basketball, or football. Player selection is conducted through random drawings, a bidding process, or by selection from a roster prepared by the parimutuel network coordinator.
- (3) Except for fantasy sports leagues operated under Title 23, chapter 4, after the initial teams are selected, interim replacement of players may occur by trade or purchase. A specific fee, which may not exceed the total entrance fee, is charged for each transaction.
- (4) A method, as defined by league rules, is devised to permit each team to compete against other teams in the league. Points are awarded to a team according to the performance of individual players or teams or both during a designated time period.
- (5) A league member may be eligible to receive a payout based on the number of points accumulated. Payouts, which may be in the form of cash or prizes, are awarded according to league rules.
- (6) The roster of eligible participants prepared by the parimutuel network must be provided to each league member.

(7) Rules governing the conduct of the fantasy sports league must be provided in writing to each league member.

MCA 23-5-802

23-5-802. Fantasy sports leagues authorized

It is lawful to conduct or participate in a fantasy sports league, including a fantasy sports league that is operated under a parimutuel system of wagering regulated under Title 23, chapter 4. It is unlawful to wager on a fantasy sports league by telephone or by the internet.

MCA 23-5-805

23-5-805. Payouts--administrative fees charged by commercial establishments

(1) Except as provided in subsection (2)(b), the total value of payouts to all league members must equal the amount collected for entrance, administrative, and transactions fees, minus payment for administrative expenses.

(2)(a) Except as provided in subsection (2)(b), if a commercial establishment charges an administrative fee for conducting a fantasy sports league, the fee for each participant may not be more than 15% of the amount charged as a participant's entrance fee.

(b) The parimutuel network, as defined in 23-4-101, shall distribute all funds wagered on fantasy sports leagues in any wagering pool pursuant to the requirements of 23-4-302 and 23-4-304.

MCA 23-5-806

23-5-806. Sports betting prohibited--applicability

Sections 23-5-801, 23-5-802, and 23-5-805 do not:

(1) authorize betting or wagering on the outcome of an individual sports event;  
or

(2) apply to gambling activities governed under Title 23, chapter 4, except for parimutuel facilities, parimutuel networks, or simulcast parimutuel networks conducting fantasy sports leagues, or under Title 23, chapter 5, part 2 or 5.

MCA 23-5-810  
23-5-810. Violations

A person who purposely or knowingly violates or procures, aids, or abets in a violation of this part is guilty of a misdemeanor punishable under 23-5-161.

**Pennsylvania**

71 P.S. § 109  
§ 109. Pennsylvania Gaming Control Board

(a) Not later than 90 days after the effective date of this section, the Pennsylvania Gaming Control Board shall submit a report to the chairperson and minority chairperson of the Community, Economic and Recreational Development Committee of the Senate and the chairperson and minority chairperson of the Gaming Oversight Committee of the House of Representatives on the potential of fantasy sports as a gambling product in this Commonwealth.

(b) In compiling the report, the Pennsylvania Gaming Control Board shall consider and address the following:

- (1) A definition of "fantasy sports."
- (2) The structure of the different fantasy sports formats and the underlying activities that may be appropriate for oversight.
- (3) Fantasy sports entities, including the roles and relationships of ancillary fantasy sports businesses, including host Internet websites, collegiate and professional sports organizations and persons with a controlling interest in fantasy sports entities.
- (4) How regulation of fantasy sports would fit into the Commonwealth's current gambling laws and policies.
- (5) Compulsive and problem gambling.
- (6) Protection of minors.
- (7) Measures to ensure the well-being and safety of players.

- (8) Safeguards and mechanisms to ensure the reporting of gambling winnings and facilitate the collection of applicable Federal and State taxes in compliance with Federal and State law.
- (9) Recommendations for legislative action.
- (10) Any other information related to the conduct and operation of fantasy sports as the board may deem appropriate.

**Texas**

V.T.C.A., Penal Code § 47.02

§ 47.02. Gambling

(a) A person commits an offense if he:

- (1) makes a bet on the partial or final result of a game or contest or on the performance of a participant in a game or contest;
  - (2) makes a bet on the result of any political nomination, appointment, or election or on the degree of success of any nominee, appointee, or candidate;
- or
- (3) plays and bets for money or other thing of value at any game played with cards, dice, balls, or any other gambling device.

(b) It is a defense to prosecution under this section that:

- (1) the actor engaged in gambling in a private place;
  - (2) no person received any economic benefit other than personal winnings;
- and
- (3) except for the advantage of skill or luck, the risks of losing and the chances of winning were the same for all participants.

(c) It is a defense to prosecution under this section that the actor reasonably believed that the conduct:

- (1) was permitted under Chapter 2001, Occupations Code;
- (2) was permitted under Chapter 2002, Occupations Code;
- (3) was permitted under Chapter 2004, Occupations Code;
- (4) consisted entirely of participation in the state lottery authorized by the State Lottery Act (Chapter 466, Government Code);
- (5) ~~(4)~~ was permitted under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); or

(6) ~~(5)~~ consisted entirely of participation in a drawing for the opportunity to participate in a hunting, fishing, or other recreational event conducted by the Parks and Wildlife Department.

(d) An offense under this section is a Class C misdemeanor.

(e) It is a defense to prosecution under this section that a person played for something of value other than money using an electronic, electromechanical, or mechanical contrivance excluded from the definition of “gambling device” under Section 47.01(4)(B).

### **Discussion on TX Law**

Sports events

Fantasy sports leagues

Because the outcome of games in daily fantasy sports leagues depends partially on chance, an individual's payment of a fee to participate in such activities is a bet, and accordingly, a court would likely determine that participation in daily fantasy sports leagues is illegal gambling under section 47.02 of the Penal Code. Tex. Atty. Gen. Op., No. KP-0057 (2016).

Social gambling

Though participating in a traditional fantasy sports league is also illegal gambling, participants in such leagues may avail themselves of a statutory defense to prosecution under section 47.02(b) of the Penal Code when play is in a private place, no person receives any economic benefit other than personal winnings, and the risks of winning or losing are the same for all participants. Tex. Atty. Gen. Op., No. KP-0057 (2016).