

1 SENATE BILL NO. 133  
2 INTRODUCED BY T. MCGILLVRAY  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO FANTASY SPORTS  
5 LEAGUES AND GAMBLING CONDUCTED BY THE BOARD OF HORSERACING; REMOVING THE BOARD  
6 OF HORSERACING'S AUTHORITY OVER PARIMUTUEL FANTASY SPORTS GAMBLING; REVISING  
7 DEFINITIONS; AND AMENDING SECTIONS 23-4-101, 23-4-104, 23-4-105, 23-4-201, 23-4-202, 23-4-301, 23-  
8 4-302, 23-4-304, 23-5-801, 23-5-802, AND 23-5-805, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11

12 **Section 1.** Section 23-4-101, MCA, is amended to read:

13 **"23-4-101. Definitions.** Unless the context requires otherwise, in this chapter the following definitions  
14 apply:

15 (1) "Advance deposit wagering" means a form of parimutuel wagering in which a person deposits  
16 money in an account with an advance deposit wagering hub operator licensed by the board to conduct advance  
17 deposit wagering. The money is used to pay for parimutuel wagers made in person, by telephone, or through a  
18 communication by other electronic means on horse or greyhound races held in or outside this state.

19 (2) "Advance deposit wagering hub operator" means a simulcast and interactive wagering hub  
20 business licensed by the board that, through a subscriber-based service located in this or another state,  
21 conducts parimutuel wagering on the races that it simulcasts and on other races that it carries in its wagering  
22 menu and that uses a computer that registers bets and divides the total amount bet among those who won.

23 (3) "Board" means the board of horseracing provided for in 2-15-1809.

24 (4) "Board of stewards" means a board composed of three stewards who supervise race meets.

25 (5) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

26 ~~(6) "Fantasy sports league" has the meaning provided in 23-5- 801.~~

27 ~~(7)~~(6) "Immediate family" means the spouse, parents, children, grandchildren, brothers, or sisters of

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1 an official or licensee regulated by this chapter who have a permanent or continuous residence in the  
2 household of the official or licensee and all other persons who have a permanent or continuous residence in the  
3 household of the official or licensee.

4 ~~(8)(7)~~ "Match bronc ride" means a saddle bronc riding contest consisting of two sections known as a  
5 "long go" and a "short go" in which the win, place, and show winners are determined by judges of the rides for  
6 each go.

7 ~~(9)(8)~~ "Minor" means a person under 18 years of age.

8 ~~(10)(9)~~ "Montana wager" means a parimutuel wager that is placed at a race track in Montana or on a  
9 race being conducted in Montana or any parimutuel wager placed by a Montana resident on a race conducted  
10 outside of Montana.

11 ~~(11)~~ "Parimutuel facility" means a facility licensed by the board at which fantasy sports leagues are  
12 conducted and wagering on the outcome under a parimutuel system is permitted.

13 ~~(12)~~ "Parimutuel network" means an association licensed by the board to compile and distribute  
14 fantasy sports league rosters and weekly point totals for licensed parimutuel facilities and to manage statewide  
15 parimutuel wagering pools on fantasy sports leagues.

16 ~~(13)(10)~~ \_\_\_\_\_ "Persons" means individuals, firms, corporations, fair boards, and associations.

17 ~~(14)(11)~~ \_\_\_\_\_ (a) "Race meet" means racing of registered horses or mules, match bronc rides, and  
18 wild horse rides at which the parimutuel system of wagering is used. The term includes horseraces, mule races,  
19 and greyhound races that are simulcast.

20 (b) The term does not include live greyhound racing.

21 ~~(15)(12)~~ \_\_\_\_\_ "Racing" means live racing of registered horses or mules and simulcast racing of  
22 horses, mules, and greyhounds.

23 ~~(16)(13)~~ \_\_\_\_\_ "Simulcast" means a live broadcast of an actual horserace, mule race, or greyhound  
24 race at the time it is run. The term includes races of local or national prominence.

25 ~~(17)(14)~~ \_\_\_\_\_ "Simulcast facility" means a facility at which horseraces, mule races, or greyhound  
26 races are simulcast and wagering on the outcome is permitted under the parimutuel system.

27 ~~(18)(15)~~ \_\_\_\_\_ "Simulcast parimutuel network" means an association that has contracted with the

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1 board to receive or originate intrastate and interstate simulcast race signals, relay the race signals to licensed  
2 simulcast facilities, and manage statewide parimutuel wagering pools on simulcast races ~~or has been licensed~~  
3 ~~by the board to operate a statewide parimutuel wagering pool for fantasy sports leagues.~~ The board may act as  
4 a simulcast parimutuel network provider with respect to simulcast races.

5 ~~(19)(16)~~— \_\_\_\_\_ "Source market fee" means the portion of a wager made with a licensed advance  
6 deposit wagering hub operator by a Montana resident that is paid to the board.

7 ~~(20)(17)~~— \_\_\_\_\_ "Steward" means an official hired by the department and by persons sponsoring a race  
8 meet to regulate and control the day-to-day conduct and operation of a sanctioned meet.

9 ~~(21)(18)~~— \_\_\_\_\_ "Wild horse ride" means a wild horse riding contest in which three-person teams  
10 attempt to saddle a wild horse and ride it completely around a track with the first to do so declared the winner."  
11

12 **Section 2.** Section 23-4-104, MCA, is amended to read:

13 **"23-4-104. Duties of board.** The board shall adopt rules to govern race meets and the parimutuel  
14 system. These rules shall include the following:

- 15 (1) definitions;
- 16 (2) auditing;
- 17 (3) supervision of the parimutuel system;
- 18 (4) corrupt practices;
- 19 (5) supervision, duties, and responsibilities of the executive secretary, presiding steward, racing  
20 secretary, and other racing officials;
- 21 (6) licensing of all personnel who have anything to do with the substantive operation of racing;
- 22 (7) the establishment of dates for race meets and meetings in the best interests of breeding and  
23 racing in this state;
- 24 (8) the veterinary practices and standards that must be observed in connection with race meets;
- 25 (9) absolute responsibility of trainers for the condition of horses and mules, regardless of the acts  
26 of third parties;
- 27 (10) licensing or renewal of a license of a person whose license has been suspended by the board

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1 or another horseracing jurisdiction;

2 (11) setting license fees commensurate with the cost of issuing a license;

3 (12) the time, conduct, and supervision of simulcast races ~~and fantasy sports leagues~~ and

4 parimutuel betting on simulcast races ~~and fantasy sports leagues~~;

5 (13) licensing, approval, and regulation of simulcast facilities; and

6 (14) licensing, approval, and regulation of match bronc rides and wild horse rides."

7

8 **Section 3.** Section 23-4-105, MCA, is amended to read:

9 **"23-4-105. Authority of board.** (1) The board shall license and regulate racing, match bronc rides,  
10 and wild horse rides and review race meets held in this state under this chapter. All percentages withheld from  
11 amounts wagered, amounts set aside pursuant to 23-4-202(4)(d), percentages collected pursuant to 23-4-  
12 204(3), percentages collected pursuant to 23-4-302(3) ~~and (5)(b)~~, money collected pursuant to 23-4-304(1)(a)  
13 and (1)(b), and money received from the state lottery and sports wagering commission pursuant to 23-7-314  
14 must be deposited in a state special revenue account and are statutorily appropriated to the board as provided  
15 in 17-7-502. The board shall then distribute all funds collected under 23-4-202(4)(d), 23-4-204(3), 23-4-302(3)  
16 ~~and (5)(b)~~, and 23-4-304(1)(a) and (1)(b) to live race purses or for other purposes for the good of the existing  
17 horseracing industry. If the board decides to authorize new forms of racing, including new forms of simulcast  
18 racing, not currently authorized in Montana, the board shall do so after holding public hearings to determine the  
19 effects of these forms of racing on the existing saddle racing program in Montana. The board shall consider  
20 both the economic and safety impacts on the existing racing and breeding industry. The board is not authorized  
21 to allow players to place bets on replays of past horse races.

22 (2) Funds retained by the board in a state special revenue fund pursuant to 23-4-302(1) and (4)  
23 are statutorily appropriated to the board as provided in 17-7-502 for the operation of a simulcast parimutuel  
24 network and for other purposes that the board considers appropriate for the good of the existing horseracing  
25 industry."

26

27 **Section 4.** Section 23-4-201, MCA, is amended to read:

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1           **"23-4-201. Licenses -- contracts.** (1) (a) A person may not hold a race meet ~~or conduct fantasy~~  
2 sports league wagering through a parimutuel facility, parimutuel network, or a simulcast parimutuel network  
3 ~~conducting a fantasy sports league~~ in this state without a valid license issued by the department under this  
4 chapter. A person applying for a license to hold a race meet under this chapter shall file with the department an  
5 application that must set forth the time, place, and number of days the license will continue and other  
6 information the board requires.

7           (b) A person may not conduct simulcast racing through a simulcast parimutuel network without  
8 having entered into a contract with the board.

9           (2) A person who participates in a race meet, except for a match bronc ride or a wild horse ride,  
10 must be licensed and charged an annual fee set by the board. The annual fee must be paid to the department  
11 and used for expenses of administering this chapter. Each person holding a license under this chapter shall  
12 comply with this chapter and with the rules adopted and orders issued by the board.

13           (3) A license may not be issued to a person who has failed to pay the fees, taxes, or money  
14 required under this chapter.

15           (4) An application to hold a race meet must be submitted to the department, and the board shall  
16 act on the application within 30 days. The board is the sole judge of whether the race meet may be licensed  
17 and the number of days the meet may continue.

18           (5) The board shall require that a fair board and an independent racing association conducting a  
19 race meet comply with the requirements of the rules adopted by the board before granting a license.

20           (6) A racing association consisting of a local fair board or an association approved by a local fair  
21 board may submit a contract proposal to the board to hold a simulcast race meet in a simulcast facility.

22           (7) An unexpired license held by a person who violates this chapter or who fails to pay to the  
23 department the sums required under this chapter is subject to cancellation and revocation by the board.

24           ~~(8) A license to operate a parimutuel facility conducting fantasy sports league wagering may not be~~  
25 ~~issued to an applicant unless the applicant is also licensed under Title 23, chapter 5."~~

26

27           **Section 5.** Section 23-4-202, MCA, is amended to read:

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1           **"23-4-202. Penalty for violations of law -- authority of board -- judicial review.** (1) (a) A person  
2 holding a race meet or an owner, trainer, or jockey participating in a race meet, except a participant in a match  
3 bronc ride or a wild horse ride, without first being licensed under this chapter or a person violating this chapter  
4 is guilty of a misdemeanor.

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

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

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

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

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

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

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

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

27           (d) setting aside of up to 3% of exotic wagering on races, including simulcast races, to be

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1 deposited in a state special revenue account. The board shall then distribute all funds collected under this  
2 subsection (4)(d) to live race purses or for other purposes that the board considers appropriate for the good of  
3 the existing horseracing industry.

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

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

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

9 (h) standards for simulcast facilities;

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

12 (j) ~~conduct and supervision of parimutuel facilities, parimutuel networks, simulcast parimutuel  
13 networks, and parimutuel wagering on fantasy sports leagues conducted at parimutuel facilities;~~

14 ~~(k) conduct and supervision of match bronc rides and wild horse rides; and~~

15 ~~(l)(k) conduct and supervision of advance deposit wagering.~~

16 (5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial  
17 review of cases arising under this chapter."  
18

19 **Section 6.** Section 23-4-301, MCA, is amended to read:

20 **"23-4-301. Parimutuel betting -- other betting illegal -- penalty.** (1) It is unlawful to make, report,  
21 record, or register a bet or wager on the result of a contest of speed, skill, or endurance of an animal, whether  
22 the contest is held within or outside this state, except under 23-5-502 or this chapter.

23 (2) A licensee conducting a race meet under this chapter may provide a place in the race meet  
24 grounds or enclosure where the licensee may conduct or supervise the use of the parimutuel system by patrons  
25 on the result of the races conducted under this chapter and the rules of the board.

26 (3) A person licensed under this chapter to hold a race meet may simulcast live races at a place in  
27 the race meet grounds or simulcast facility where the licensee may conduct or supervise the use of the

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1 parimutuel system by patrons on the results of simulcast races approved by the board.

2 (4) It is unlawful to conduct pool selling or bookmaking or to circulate handbooks or to bet or wager  
3 on a race of a licensed race meet, other than by the parimutuel system and in the race meet grounds or  
4 enclosure where the race is held, or to permit a minor to use the parimutuel system.

5 (5) Each licensee conducting a parimutuel system for an intrastate simulcast race meet shall  
6 combine the parimutuel pools at a simulcast facility with those at the actual racing facility for the purpose of  
7 determining the odds and computing payoffs. The amount of the handle at the simulcast race meet must be  
8 combined with the amount of the parimutuel handle at the live racing facility for the purposes of distribution of  
9 money derived from parimutuel betting under 23-4-302 and 23-4-304.

10 (6) Negotiated purse money from intrastate and interstate simulcast parimutuel handles at racing  
11 associations that do not conduct live racing will be pooled and distributed to all tracks conducting live racing. All  
12 money must be distributed on a percentage, based on each track's percent, of the total annual on-track  
13 parimutuel handle.

14 (7) The board may license an advance deposit wagering hub operator to conduct advance deposit  
15 wagering. Advance deposit wagering is prohibited and illegal unless it is conducted through an advance deposit  
16 wagering hub operator licensed by the board. A licensed advance deposit wagering hub operator:

17 (a) may accept advance deposit wagering money for races conducted by a licensed race meet;

18 (b) may not accept a wager in an amount in excess of the money on deposit in the account of a  
19 person who wishes to make the wager;

20 (c) may not allow a person under 18 years of age to open an account with the advance deposit  
21 wagering hub operator, make a wager from an account, or otherwise have access to an account;

22 (d) shall include a statement in any of its advertising for advance deposit wagering that a person  
23 under 18 years of age is not allowed to participate;

24 (e) shall verify the identification, residence, and age of each person seeking to open an advance  
25 deposit wagering account;

26 (f) shall agree to pay to the board a source market fee in an amount equal to a percentage, as set  
27 forth in its license agreement, of the total amount wagered by Montana residents from their accounts with the

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1 advance deposit wagering hub operator; and

2 (g) shall agree to a payment schedule of source market fees as set forth in its license agreement.

3 (8) (a) It is unlawful for a person or organization to accept a Montana wager without being licensed  
4 by the state of Montana as provided in this chapter.

5 (b) A violation of subsection (8)(a) is an illegal gambling enterprise, as defined in 23-5-112, and is  
6 punishable as provided by law.

7 ~~(9) It is unlawful to:~~

8 ~~(a) conduct pool selling or bookmaking or to wager on a fantasy sports league other than by the  
9 parimutuel system and by being physically present at the licensed parimutuel facility;~~

10 ~~(b) permit a minor to use the parimutuel system; or~~

11 ~~(c) conduct internet or telephone wagering on fantasy sports leagues."~~

12

13 **Section 7.** Section 23-4-302, MCA, is amended to read:

14 **"23-4-302. Distribution of deposits -- breakage.** (1) Each licensee conducting the parimutuel  
15 system for a simulcast race meet shall distribute all funds deposited in any pool to the winner of the parimutuel  
16 pool, less an amount that in the case of exotic wagering on races may not exceed 26% and in all other races  
17 may not exceed 20% of the total deposits plus the odd cents of all redistribution to be based on each dollar  
18 deposited exceeding a sum equal to the next lowest multiple of 10, known as "breakage".

19 (2) Each licensee conducting the parimutuel system for a simulcast race meet shall distribute all  
20 funds deposited with the licensee in any pool for the simulcast race meet, less an amount that in the case of  
21 exotic wagering on these races may not exceed 26%, unless the signal originator percentage is higher, in which  
22 case the Montana simulcast licensee may adopt the same percentage withheld as the place where the signal  
23 originated, and that in all other of these races may not exceed 20% of the total deposits plus the odd cents of all  
24 redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of 10,  
25 known as "breakage".

26 (3) Each licensee conducting a parimutuel system for a simulcast race meet shall deduct 1% of the  
27 total amount wagered on the race meet and deposit it in a state special revenue account. The board shall then

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1 distribute all funds collected under this subsection to live race purses or for other purposes that the board  
2 considers appropriate for the good of the existing horseracing industry.

3 (4) (a) Source market fees from licensed advance deposit wagering hub operators must be  
4 deposited by the board in the board's state special revenue account.

5 (b) The board shall pay 80% of the source market fees generated between May 1 and the  
6 following April 30 to live race meet licensees based on each live race meet licensee's percentage of the total  
7 annual on-track parimutuel handle during the previous live race season. Prior to the beginning of each year's  
8 live race season, the correct percentage must be distributed by the board to each live race meet licensee to be  
9 used for race purses or other purposes that the board considers appropriate for the good of the horseracing  
10 industry.

11 (c) Ten percent of the source market fees paid to the board in a calendar year may be retained by  
12 the board for the payment of administrative expenses. One-half of the remaining 10% of the source market fees  
13 paid to the board in a calendar year may, by January 31 of the following calendar year, be paid to the owner  
14 bonus program and the other one-half to the breeder bonus program.

15 ~~(5) (a) The parimutuel network licensee conducting fantasy sports league wagering shall distribute all~~  
16 ~~funds deposited in the pool to the winner of the parimutuel pool less the takeout amount of not more than 30%~~  
17 ~~of the total deposits.~~

18 ~~(b) The takeout amount must be distributed according to the yearly license agreement between the~~  
19 ~~parimutuel facility licensee, the parimutuel network licensee, and the board. No more than 10% of the amount~~  
20 ~~collected under this subsection (5)(b) may be appropriated by the legislature for administration of this chapter.~~  
21 ~~The remaining portion collected under this subsection (5)(b) must be deposited in a state special revenue~~  
22 ~~account. The board shall then distribute this portion to live race purses and for other purposes that the board~~  
23 ~~considers appropriate for the good of the existing horseracing industry.~~

24 ~~(c) The odd cents of all redistribution based on each dollar deposited that exceeds a sum equal to the~~  
25 ~~next lowest multiple of 10, known as "breakage", as well as unclaimed winning tickets from each parimutuel~~  
26 ~~pool, must be distributed by the board to live race purses or for other purposes that the board considers~~  
27 ~~appropriate for the good of the existing horseracing industry."~~

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2           **Section 8.** Section 23-4-304, MCA, is amended to read:

3           **"23-4-304. Gross receipts -- department's percentage -- collection and allocation.** (1) (a) Each  
4 live race meet licensee shall pay to the department within 5 days following receipt by the licensee 1% of the  
5 gross receipts of each day's parimutuel betting at each race meet. At the end of each race meet the licensee  
6 shall prepare a report to the department showing the amount of the overpayments and underpayments. If the  
7 report shows the underpayments to be in excess of the overpayments, the balance must be paid to the  
8 department. Money paid to the department may be used for the expenses incurred in carrying out this chapter.  
9 The licensee shall, at the same time, pay to the department all funds collected under 23-4-202(4)(d) on exotic  
10 wagering on races. These funds must be deposited in a state special revenue account. The board shall then  
11 distribute all funds collected under 23-4-202(4)(d) to live race purses or for other purposes that the board  
12 considers appropriate for the good of the existing horseracing industry.

13           (b) Each licensed simulcast facility shall pay to the department either 1% of the gross receipts of  
14 each day's parimutuel betting at each race meet or the actual cost to the board of regulating the simulcast race  
15 meet, whichever is higher. The money must be paid to the department within 5 days after receipt of the money  
16 by the licensee. At the end of each race meet the licensed simulcast facility shall prepare a report to the  
17 department showing the amount of the overpayments and underpayments. If the report shows the  
18 underpayments to be in excess of the overpayments, the balance must be paid to the department. Money paid  
19 to the department must be deposited in an account in the state special revenue fund and must be used for the  
20 administration of this chapter. The licensed simulcast facility shall, at the same time, pay to the department all  
21 funds collected under 23-4-202(4)(d) on exotic wagering on races. These funds must be deposited in a state  
22 special revenue account. The board shall then distribute all funds collected under 23-4-202(4)(d) to live race  
23 purses or for other purposes that the board considers appropriate for the good of the existing horseracing  
24 industry.

25           ~~(c) The licensed parimutuel network conducting fantasy sports league wagering shall pay the funds~~  
26 ~~distributed pursuant to 23-4-302 (5)(b) to the department within 10 days after receipt of the money by the~~  
27 ~~licensee.~~

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1           (2)     Prior to the beginning of the live racing season, funds collected under 23-4-202(4)(d) must be  
2 distributed by the department, after first passing through a state special revenue account, to be used for race  
3 purses that are distributed to each live race meet by the board or for other purposes that the board considers  
4 appropriate for the good of the horseracing industry."  
5

6           **Section 9.** Section 23-5-801, MCA, is amended to read:

7           **"23-5-801. Fantasy sports leagues defined.** As used in this part, a "fantasy sports league" means a  
8 gambling activity conducted in the following manner:

9           (1)     A fantasy sports league consists of a limited number of persons or groups of persons who pay  
10 an entrance fee for membership in the league. The entrance fee may include an administrative fee.

11          (2)     Each league member creates a fictitious team composed of athletes from a given professional  
12 sport, such as baseball, basketball, or football. Player selection is conducted through random drawings, a  
13 bidding process, or by selection from a roster prepared by the parimutuel network coordinator.

14          (3)     ~~Except for fantasy sports leagues operated under Title 23, chapter 4, after~~ After the initial  
15 teams are selected, interim replacement of players may occur by trade or purchase. A specific fee, which may  
16 not exceed the total entrance fee, is charged for each transaction.

17          (4)     A method, as defined by league rules, is devised to permit each team to compete against other  
18 teams in the league. Points are awarded to a team according to the performance of individual players or teams  
19 or both during a designated time period.

20          (5)     A league member may be eligible to receive a payout based on the number of points  
21 accumulated. Payouts, which may be in the form of cash or prizes, are awarded according to league rules.

22          (6)     ~~The roster of eligible participants prepared by the parimutuel network must be provided to each~~  
23 ~~league member.~~

24          (7) ~~—~~Rules governing the conduct of the fantasy sports league must be provided in writing to each  
25 league member."  
26

27           **Section 10.** Section 23-5-802, MCA, is amended to read:

