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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 865 Session of  
2017

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INTRODUCED BY DUNBAR, CHARLTON, HELM, ORTITAY, WHEELAND AND  
MASSER, MARCH 16, 2017

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REFERRED TO COMMITTEE ON GAMING OVERSIGHT, MARCH 16, 2017

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AN ACT

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated  
2 Statutes, providing for fantasy contests.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Title 4 of the Pennsylvania Consolidated Statutes  
6 is amended by adding a part to read:

7 PART I

8 AMUSEMENTS GENERALLY

9 Chapter

10 1. Preliminary Provisions (Reserved)

11 3. Fantasy Contests

12 CHAPTER 1

13 PRELIMINARY PROVISIONS

14 (Reserved)

15 CHAPTER 3

16 FANTASY CONTESTS

17 Subchapter

- 1     A. General Provisions
- 2     B. Administration
- 3     C. Licensure
- 4     D. Fiscal Provisions
- 5     E. Miscellaneous Provisions

6                                    SUBCHAPTER A

7                                    GENERAL PROVISIONS

8     Sec.

9     301. Scope.

10    302. Definitions.

11    § 301. Scope.

12        This chapter relates to fantasy contests.

13    § 302. Definitions.

14        The following words and phrases when used in this chapter  
15 shall have the meanings given to them in this section unless the  
16 context clearly indicates otherwise:

17        "Board." The Pennsylvania Gaming Control Board.

18        "Conduct of gaming." As defined in section 1103 (relating to  
19 definitions).

20        "Controlling interest." Either of the following:

21            (1) For a publicly traded domestic or foreign  
22 corporation, partnership, limited liability company or other  
23 form of publicly traded legal entity, a controlling interest  
24 is an interest if a person's sole voting rights under State  
25 law or corporate articles or bylaws entitle the person to  
26 elect or appoint one or more of the members of the board of  
27 directors or other governing board or the ownership or  
28 beneficial holding of 5% or more of the securities of the  
29 publicly traded corporation, partnership, limited liability  
30 company or other form of publicly traded legal entity, unless

1 this presumption of control or ability to elect is rebutted  
2 by clear and convincing evidence.

3 (2) For a privately held domestic or foreign  
4 corporation, partnership, limited liability company or other  
5 form of privately held legal entity, a controlling interest  
6 is the holding of securities of 15% or more in the legal  
7 entity, unless this presumption of control is rebutted by  
8 clear and convincing evidence.

9 "Department." The Department of Revenue of the Commonwealth.

10 "Entry fee." The cash or cash equivalent paid by a  
11 participant to a licensed operator in order to participate in a  
12 fantasy contest.

13 "Fantasy contest." An online fantasy or simulated game or  
14 contest with an entry fee and a prize or award administered by a  
15 licensed operator in which:

16 (1) The value of all prizes or awards offered to winning  
17 participants is established and made known to participants in  
18 advance of the contest.

19 (2) All winning outcomes reflect the relative knowledge  
20 and skill of participants and are determined by accumulated  
21 statistical results of the performance of individuals,  
22 including athletes in the case of sports events.

23 (3) No winning outcome is based on the score, point  
24 spread or performance of a single actual team or combination  
25 of teams or solely on a single performance of an individual  
26 athlete or player in a single actual event.

27 "Fantasy contest account." The formal electronic system  
28 implemented by a licensed operator to record a participant's  
29 entry fees, prizes or awards and other activities related to  
30 participation in the licensed operator's fantasy contests.

1 "Fantasy contest adjusted revenues." For each fantasy  
2 contest, the amount equal to the total amount of all entry fees  
3 collected from all participants entering the fantasy contest  
4 minus prizes or awards paid to participants in the fantasy  
5 contest, multiplied by the in-State percentage.

6 "Fantasy contest license." A license issued by the board  
7 authorizing a person to offer fantasy contests in this  
8 Commonwealth in accordance with this chapter.

9 "Gaming service provider." As defined in section 1103  
10 (relating to definitions).

11 "In-State participant." An individual who participates in a  
12 fantasy contest conducted by a licensed operator and pays a fee  
13 to a licensed operator from a location within this Commonwealth.

14 "In-State percentage." For each fantasy contest, the  
15 percentage, rounded to the nearest tenth of a percent, equal to  
16 the total entry fees collected from all in-State participants  
17 divided by the total entry fees collected from all participants  
18 in the fantasy contest.

19 "Key employee." An individual who is employed by an  
20 applicant for a fantasy contest license or a licensed operator  
21 in a director or department head capacity and who is empowered  
22 to make discretionary decisions that regulate fantasy contest  
23 operations as determined by the board.

24 "Licensed entity representative." A person, including an  
25 attorney, agent or lobbyist, acting on behalf of or authorized  
26 to represent the interest of an applicant, licensee or other  
27 person authorized by the board to engage in an act or activity  
28 which is regulated under this chapter regarding a matter before,  
29 or which may be reasonably be expected to come before, the  
30 board.

1 "Licensed gaming entity." As defined in section 1103  
2 (relating to definitions).

3 "Licensed operator." A person who holds a fantasy contest  
4 license.

5 "Participant." An individual who participates in a fantasy  
6 contest, whether the individual is located in this Commonwealth  
7 or another jurisdiction.

8 "Person." A natural person, corporation, publicly traded  
9 corporation, foundation, organization, business trust, estate,  
10 limited liability company, licensed corporation, trust,  
11 partnership, limited liability partnership, association or any  
12 other form of legal business entity.

13 "Principal." An officer, director, person who directly holds  
14 a beneficial interest in or ownership of the securities of an  
15 applicant for a fantasy contest license or a licensed operator,  
16 person who has a controlling interest in an applicant for a  
17 fantasy contest license or a licensed operator or who has the  
18 ability to elect a majority of the board of directors of a  
19 licensed operator or to otherwise control a licensed operator,  
20 lender or other licensed financial institution of an applicant  
21 for a fantasy contest license or a licensed operator, other than  
22 a bank or lending institution which makes a loan or holds a  
23 mortgage or other lien acquired in the ordinary course of  
24 business, underwriter of an applicant for a fantasy contest  
25 license or a licensed operator or other person or employee of an  
26 applicant for a fantasy contest license or a licensed operator  
27 deemed to be a principal by the board.

28 "Prize or award." Anything of value worth \$100 or more or  
29 any amount of cash or cash equivalents.

30 "Publicly traded corporation." A person, other than an

1 individual, that:

2 (1) has a class or series of securities registered under  
3 the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C.  
4 § 78a et seq.);

5 (2) is a registered management company under the  
6 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §  
7 80a-1 et seq.); or

8 (3) is subject to the reporting obligations imposed by  
9 section 15(d) of the Securities Exchange Act of 1934 by  
10 reason of having filed a registration statement that has  
11 become effective under the Securities Act of 1933 (48 Stat.  
12 74, 15 U.S.C. § 77a et seq.).

13 "Script." A list of commands that a fantasy-contest-related  
14 computer program can execute that is created by a participant or  
15 third party not approved by the licensed operator to automate  
16 processes on a licensed operator's fantasy contest platform.

17 "Season-long fantasy contest." A fantasy contest offered by  
18 a licensed operator that is conducted over an entire sports  
19 season.

20 SUBCHAPTER B

21 ADMINISTRATION

22 Sec.

23 311. General and specific powers of board.

24 312. Temporary regulations.

25 313. Fantasy contest license appeals.

26 314. Board minutes and records.

27 315. Reports of board.

28 § 311. General and specific powers of board.

29 (a) General powers.--

30 (1) The board shall have regulatory authority over

1 licensed operators, principals and key employees and shall  
2 ensure the integrity of fantasy contests offered in this  
3 Commonwealth in accordance with this chapter.

4 (2) The board may employ individuals as necessary to  
5 carry out the requirements of this chapter, who shall serve  
6 at the board's pleasure. An employee of the board shall be  
7 considered a State employee for purposes of 71 Pa.C.S. Pt.  
8 XXV (relating to retirement for State employees and  
9 officers).

10 (b) Specific powers.--The board shall have the following  
11 powers:

12 (1) At the board's discretion, to issue, approve, renew,  
13 revoke, suspend, condition or deny issuance of licenses.

14 (2) At the board's discretion, to suspend, condition or  
15 deny the issuance or renewal of a license or levy fines for  
16 any violation of this chapter.

17 (3) To publish each January on the board's publicly  
18 accessible Internet website a complete list of all persons  
19 who applied for or held a fantasy contest license at any time  
20 during the preceding calendar year and the status of the  
21 application or fantasy contest license.

22 (4) To prepare and, through the Governor, submit  
23 annually to the General Assembly an itemized budget  
24 consistent with Article VI of the act of April 9, 1929  
25 (P.L.177, No.175), known as The Administrative Code of 1929,  
26 consisting of the amounts necessary to be appropriated by the  
27 General Assembly out of the accounts established under  
28 section 332 (relating to licensed operator deposits) required  
29 to meet the obligations under this chapter accruing during  
30 the fiscal period beginning July 1 of the following year.

1       (5) In the event that, in any year, appropriations for  
2 the administration of this chapter are not enacted by June  
3 30, any funds appropriated for the administration of this  
4 chapter which are unexpended, uncommitted and unencumbered at  
5 the end of a fiscal year shall remain available for  
6 expenditure by the board until the enactment of appropriation  
7 for the ensuing fiscal year.

8       (6) To promulgate rules and regulations necessary for  
9 the administration and enforcement of this chapter. Except as  
10 provided in section 312 (relating to temporary regulations),  
11 regulations shall be adopted under the act of July 31, 1968  
12 (P.L.769, No.240), referred to as the Commonwealth Documents  
13 Law, and the act of June 25, 1982 (P.L.633, No.181), known as  
14 the Regulatory Review Act.

15       (7) To administer oaths, examine witnesses and issue  
16 subpoenas compelling the attendance of witnesses or the  
17 production of documents and records or other evidence or to  
18 designate officers or employees to perform duties required by  
19 this chapter.

20       (8) At the board's discretion, to delegate any of the  
21 board's responsibilities under this chapter to the executive  
22 director of the board or other designated staff.

23       (9) To require licensed operators and applicants for a  
24 fantasy contest license to submit any information or  
25 documentation necessary to ensure the proper regulation of  
26 fantasy contests in accordance with this chapter.

27       (10) To require licensed operators, except for a  
28 licensed operator operating season-long fantasy contests that  
29 generate less than \$250,000 in season-long fantasy contest  
30 adjusted revenue, unless the board determines otherwise, to:

1           (i) annually contract with a certified public  
2           accountant to conduct an independent audit in accordance  
3           with standards adopted by the American Institute of  
4           Certified Public Accountants to verify compliance with  
5           the provisions of this chapter and board regulations;

6           (ii) annually contract with a testing laboratory  
7           approved by the board to verify compliance with the  
8           provisions of this chapter and board regulations; and

9           (iii) annually submit to the board and department a  
10          copy of the audit report required by subparagraph (i) and  
11          submit to the board a copy of the report of the testing  
12          laboratory required by subparagraph (ii).

13          (11) In conjunction with the Department of Drug and  
14          Alcohol Programs, to develop a process by which licensed  
15          operators provide participants with a toll-free telephone  
16          number that provides individuals with information on how to  
17          access appropriate treatment services for compulsive and  
18          problem play.

19          (b.1) Licensed entity representative.--

20           (1) A licensed entity representative shall register with  
21           the board, in a manner prescribed by the board. The  
22           registration shall include the name, employer or firm,  
23           business address and business telephone number of both the  
24           licensed entity representative and any licensed operator,  
25           applicant for licensure or other person being represented.

26           (2) A licensed entity representative shall have an  
27           affirmative duty to update its registration information on an  
28           ongoing basis. Failure to update shall be punishable by the  
29           board.

30           (3) The board shall maintain a list of licensed entity

1 representatives which shall contain the information required  
2 under paragraph (1) and shall be available for public  
3 inspection at the offices of the board and on the board's  
4 publicly accessible Internet website.

5 (c) Exceptions.--Except as provided under section 342  
6 (relating to licensed gaming entities), nothing in this section  
7 shall be construed to authorize the board:

8 (1) To require background investigations for employees,  
9 other than key employees and principals, of an applicant for  
10 a fantasy contest license or a licensed operator.

11 (2) To require any additional permits or licenses not  
12 specifically enumerated in this chapter.

13 (3) To impose additional conditions of licensure on  
14 licensed operators or prohibitions on the operation of  
15 fantasy contests not specifically enumerated in this chapter.

16 § 312. Temporary regulations.

17 (a) Promulgation.--In order to facilitate the prompt  
18 implementation of this chapter, regulations promulgated by the  
19 board shall be deemed temporary regulations and shall expire no  
20 later than two years following the effective date of this  
21 section. The board may promulgate temporary regulations not  
22 subject to:

23 (1) Sections 201, 202 and 203 of the act of July 31,  
24 1968 (P.L.769, No.240), referred to as the Commonwealth  
25 Documents Law.

26 (2) The act of June 25, 1982 (P.L.633, No.181), known as  
27 the Regulatory Review Act.

28 (b) Expiration.--Except for temporary regulations concerning  
29 network connectivity, security and testing and compulsive and  
30 problem play, the authority provided to the board to adopt

1 temporary regulations in subsection (a) shall expire no later  
2 than two years following the effective date of this section.  
3 Regulations adopted after this period shall be promulgated as  
4 provided by law.

5 § 313. Fantasy contest license appeals.

6 An applicant may appeal any final order, determination or  
7 decision of the board involving the approval, issuance, denial,  
8 revocation or conditioning of a fantasy contest license in  
9 accordance with 2 Pa.C.S. Chs. 5 Subch. A (relating to practice  
10 and procedure of Commonwealth agencies) and 7 Subch. A (relating  
11 to judicial review of Commonwealth agency action).

12 § 314. Board minutes and records.

13 (a) Record of proceedings.--The board shall maintain a  
14 record of all proceedings held at public meetings of the board.  
15 The verbatim transcript of the proceedings shall be the property  
16 of the board and shall be prepared by the board upon the request  
17 of any board member or upon the request of any other person and  
18 the payment by that person of the costs of preparation.

19 (b) Applicant information.--

20 (1) The board shall maintain a list of all applicants  
21 for a fantasy contest license. The list shall include a  
22 record of all actions taken with respect to each applicant.  
23 The list shall be open to public inspection during the normal  
24 business hours of the board.

25 (2) Information under paragraph (1) regarding an  
26 applicant whose fantasy contest license has been denied,  
27 revoked or not renewed shall be removed from the list after  
28 seven years from the date of the action.

29 (c) Other files and records.--The board shall maintain such  
30 other files and records as it may deem appropriate.

1 (d) Confidentiality of information.--

2 (1) The following information submitted by an applicant  
3 for a fantasy contest license under section 322 (relating to  
4 application) or otherwise obtained by the board as part of a  
5 background or other investigation from any source shall be  
6 confidential and withheld from public disclosure:

7 (i) All information relating to character, honesty  
8 and integrity, including family, habits, reputation,  
9 history of criminal activity, business activities,  
10 financial affairs and business, professional and personal  
11 associations.

12 (ii) Nonpublic personal information, including home  
13 addresses, telephone numbers and other personal contact  
14 information, Social Security numbers, educational  
15 records, memberships, medical records, tax returns and  
16 declarations, actual or proposed compensation, financial  
17 account records, creditworthiness or financial condition  
18 relating to an applicant.

19 (iii) Information relating to proprietary  
20 information, trade secrets, patents or exclusive  
21 licenses, architectural and engineering plans and  
22 information relating to competitive marketing materials  
23 and strategies that may include customer-identifying  
24 information or customer prospects for services subject to  
25 competition.

26 (iv) Information with respect to which there is a  
27 reasonable possibility that public release or inspection  
28 of the information would constitute an unwarranted  
29 invasion into personal privacy of an individual as  
30 determined by the board.

1           (v) Records of an applicant for a fantasy contest  
2           license or a licensed operator not required to be filed  
3           with the Securities and Exchange Commission by issuers  
4           that either have securities registered under section 12  
5           of the Securities Exchange Act of 1934 (48 Stat. 881, 15  
6           U.S.C. § 781) or are required to file reports under  
7           section 15(d) of the Securities Exchange Act of 1934 (48  
8           Stat. 881, 15 U.S.C. § 78o)

9           (vi) Records considered nonpublic matters or  
10           information by the Securities and Exchange Commission as  
11           provided by 17 CFR 200.80 (relating to commission records  
12           and information).

13           (vii) Financial or security information deemed  
14           confidential by the board upon a showing of good cause by  
15           the applicant for a fantasy contest license or licensed  
16           operator.

17           (2) No claim of confidentiality may be made regarding  
18           any criminal history record information that is available to  
19           the public under 18 Pa.C.S. § 9121(b) (relating to general  
20           regulations).

21           (3) No claim of confidentiality shall be made regarding  
22           any record in possession of the board that is otherwise  
23           publicly available from a Commonwealth agency, local agency  
24           or another jurisdiction.

25           (4) The information made confidential under this section  
26           shall be withheld from public disclosure, in whole or in  
27           part, except that any confidential information shall be  
28           released upon the order of a court of competent jurisdiction  
29           or, with the approval of the Attorney General, to a duly  
30           authorized law enforcement agency or shall be released to the

1 public, in whole or in part, to the extent that such release  
2 is requested by an applicant for a fantasy contest license or  
3 licensed operator and does not otherwise contain confidential  
4 information about another person.

5 (5) The board may seek a voluntary waiver of  
6 confidentiality from an applicant for a fantasy contest  
7 license or a licensed operator, but may not require an  
8 applicant or licensed operator to waive any confidentiality  
9 provided for in this subsection as a condition for the  
10 approval of an application, renewal of a fantasy contest  
11 license or any other action of the board.

12 (e) Notice.--Notice of the contents of any information,  
13 except to a duly authorized law enforcement agency under this  
14 section, shall be given to an applicant or licensee in a manner  
15 prescribed by the rules and regulations adopted by the board.

16 (f) Information held by department.--Files, records, reports  
17 and other information in the possession of the department  
18 pertaining to licensed operators shall be made available to the  
19 board as may be necessary for the effective administration of  
20 this chapter.

21 § 315. Reports of board.

22 (a) General rule.--The annual report submitted by the board  
23 under section 1211 (relating to reports of board) shall include  
24 the following information on the conduct of fantasy contests:

25 (1) Total fantasy contest adjusted revenues.

26 (2) All taxes, fees, fines and other revenue collected  
27 from licensed operators during the previous year. The  
28 department shall collaborate with the board to carry out the  
29 requirements of this section.

30 (3) At the board's discretion, any other information

1 related to the conduct of fantasy contests or licensed  
2 operators.

3 (b) Licensed operators.--The board may require licensed  
4 operators to provide information to the board to assist in the  
5 preparation of the report.

6 SUBCHAPTER C

7 LICENSURE

8 Sec.

9 321. General prohibition.

10 322. Application.

11 323. Issuance and denial of license.

12 324. License renewal.

13 325. Conditions of licensure.

14 326. Prohibitions.

15 327. Change in ownership or control of licensed operators.

16 328. Penalties.

17 § 321. General prohibition.

18 (a) General rule.--Except as provided for in subsection (b),  
19 no person may offer or otherwise make available for play in this  
20 Commonwealth a fantasy contest without a fantasy contest license  
21 issued by the board.

22 (b) Existing activity.--A person who applies for or renews a  
23 fantasy contest license in accordance with this chapter may  
24 operate during the application or renewal period unless:

25 (1) The board has reasonable cause to believe the person  
26 is or may be in violation of the provisions of this chapter.

27 (2) The board requires the person to suspend the  
28 operation of any fantasy contest until the license is issued  
29 or renewed.

30 § 322. Application.

1 (a) Form and information.--An application for a license  
2 shall be submitted on a form and in manner as shall be required  
3 by the board. An application for a fantasy contest license shall  
4 contain the following information:

5 (1) (i) if an individual, the name, Federal employer  
6 identification number and principal address of the  
7 applicant;

8 (ii) if a corporation, the state of its  
9 incorporation, the full name and address of each officer  
10 and director thereof;

11 (iii) if a foreign corporation, whether it is  
12 qualified to do business in this Commonwealth; and

13 (iv) if a partnership or joint venture, the name and  
14 address of each officer thereof.

15 (2) The name and address of the person having custody of  
16 the applicant's financial records.

17 (3) The names and addresses of key employees.

18 (4) The names and addresses of each of the applicant's  
19 principals.

20 (5) Information, documentation and assurances related to  
21 financial and criminal history as the board deems necessary  
22 to establish by clear and convincing evidence the financial  
23 stability, integrity and responsibility of the applicant and  
24 the applicant's key employees and principals.

25 (6) Information and documentation necessary to establish  
26 the applicant's ability to comply with section 325 (relating  
27 to conditions of licensure).

28 (7) Any other information required by the board.

29 (b) Nonrefundable application fee.--Each application  
30 submitted under this chapter shall be accompanied by a

1 nonrefundable application fee, which shall be established by the  
2 board, and which may not exceed the amount necessary to  
3 reimburse the board for all costs incurred by the board for  
4 fulfilling the requirements of this section and section 323  
5 (relating to issuance and denial of license) or exceed an amount  
6 equal to 5% of the applicant's fantasy contest adjusted revenues  
7 for the previous calendar year.

8 (c) Additional information.--A person applying for a fantasy  
9 contest license shall have the continuing duty to provide  
10 information required by the board and to cooperate in any  
11 inquiry or investigation.

12 (d) Abbreviated application process.--The board, at its  
13 discretion, may establish an abbreviated application process for  
14 a fantasy contest license for persons that are also licensed  
15 gaming entities. The abbreviated application may only require  
16 information not in possession of the board that is necessary to  
17 fulfill the requirements of this chapter.

18 § 323. Issuance and denial of license.

19 (a) Duty to review applications.--The board shall review all  
20 applications for a license and shall issue a license to any  
21 applicant that:

22 (1) Has submitted a completed application and paid the  
23 nonrefundable application fee as required by the board under  
24 section 322 (relating to application).

25 (2) Has demonstrated that the applicant has the  
26 financial stability, integrity and responsibility to comply  
27 with the provisions of this chapter and regulations  
28 established by the board.

29 (3) Has not been denied a license under subsection (b).

30 (b) Reasons to deny applications.--The board may deny an

1 application for a license if the applicant:

2 (1) has knowingly made a false statement of material  
3 fact or has deliberately failed to disclose any information  
4 requested;

5 (2) employs a principal or key employee who has been  
6 convicted of a felony, a crime of moral turpitude or any  
7 criminal offense involving dishonesty or breach of trust  
8 within 10 years prior to the date of the application for  
9 license;

10 (3) has at any time knowingly failed to comply with the  
11 provisions of this chapter or of any requirements of the  
12 board;

13 (4) has had a registration, permit or license to conduct  
14 fantasy contests denied or revoked in any other jurisdiction;

15 (5) has legally defaulted in the payment of any  
16 obligation or debt due to the Commonwealth or is not  
17 compliant with taxes due; or

18 (6) is not qualified to do business in this Commonwealth  
19 or is not subject to the jurisdiction of the courts of the  
20 Commonwealth.

21 (c) Time period for review.--The board shall conclude its  
22 review of an application for a fantasy contest license within  
23 120 days of receipt of the completed application. If the license  
24 is not issued, the board shall provide the applicant with the  
25 justification for not issuing the license with specificity.

26 (d) License fee.--

27 (1) Within 30 days of the board issuing a fantasy  
28 contest license, an applicant shall pay to the board a  
29 license fee of \$50,000 or an amount equivalent to 7.5% of the  
30 applicant's fantasy contest adjusted revenues for the

1 previous calendar year, whichever is less, except that an  
2 applicant who is also a licensed gaming entity shall pay to  
3 the board a license fee of \$50,000.

4 (2) The license fee collected under this subsection  
5 shall be deposited into the General Fund.

6 (3) If an applicant fails to pay the fee required by  
7 this subsection, the board shall suspend or revoke the  
8 applicant's fantasy contest license until payment of the  
9 license fee is received.

10 (e) Abbreviated approval process.--The board, at its  
11 discretion, may establish an abbreviated approval process for  
12 the issuance of a fantasy contest license to a licensed gaming  
13 entity whose slot machine license under Chapter 13 (relating to  
14 licenses) and table game operation certificate under Chapter 13A  
15 (relating to table games) are in good standing.

16 § 324. License renewal.

17 (a) Renewal.--

18 (1) A license issued under this chapter shall be valid  
19 for a period of five years.

20 (2) Nothing in this subsection shall be construed to  
21 relieve a licensed operator of the affirmative duty to notify  
22 the board of any changes relating to the status of its  
23 fantasy contest license or to any other information contained  
24 in the application materials on file with the board.

25 (3) The application for renewal of a fantasy contest  
26 license must be submitted at least 90 days prior to the  
27 expiration of the license and include an update of the  
28 information contained in the initial application for a  
29 fantasy contest license. A fantasy contest license for which  
30 a completed renewal application and fee as required under

1 subsection (c) has been received by the board shall continue  
2 in effect unless and until the board sends written  
3 notification to the licensed operator that the board has  
4 denied the renewal of the license.

5 (b) Revocation or failure to renew.--

6 (1) In addition to any other sanction the board may  
7 impose under this chapter, the board may at its discretion  
8 suspend, revoke or deny renewal of a fantasy contest license  
9 issued under this chapter if it receives information that:

10 (i) the applicant or any of the applicant's key  
11 employees or principals are in violation of any provision  
12 of this chapter;

13 (ii) the applicant has furnished the board with  
14 false or misleading information;

15 (iii) the information contained in the applicant's  
16 initial application or any renewal application is no  
17 longer true and correct;

18 (iv) the applicant has failed to remit taxes or  
19 assessments required under section 331 (relating to  
20 fantasy contest tax), 332 (relating to licensed operator  
21 deposits) or 333 (relating to responsibility and  
22 authority of department); or

23 (v) the applicant has legally defaulted in the  
24 payment of any obligation or debt due to the  
25 Commonwealth.

26 (2) In the event of a revocation or failure to renew,  
27 the applicant's authorization to conduct fantasy contests  
28 shall immediately cease and all fees paid in connection with  
29 the application shall be deemed to be forfeited.

30 (3) In the event of a suspension, the applicant's

1 authorization to conduct fantasy contests shall immediately  
2 cease until the board has notified the applicant that the  
3 suspension is no longer in effect.

4 (c) Renewal fee.--

5 (1) Within 30 days of the board renewing a fantasy  
6 contest license, the licensed operator shall pay to the board  
7 a renewal fee of \$5,000, or an amount equal to 7.5% of the  
8 applicant's fantasy contest adjusted revenue, whichever is  
9 less.

10 (2) The renewal fee collected by the board under this  
11 subsection shall be deposited into the General Fund.

12 (3) If a licensed operator fails to pay the renewal fee  
13 required under this subsection, the board shall suspend or  
14 revoke the licensed operator's fantasy contest license until  
15 payment of the renewal fee is received.

16 § 325. Conditions of licensure.

17 As a condition of licensure, a licensed operator shall  
18 establish and implement the following commercially reasonable  
19 procedures related to conduct of fantasy contests in this  
20 Commonwealth:

21 (1) Permit only participants who have established a  
22 fantasy contest account with the licensed operator to  
23 participate in a fantasy contest conducted by the licensed  
24 operator.

25 (2) Verify the age, location and identity of any  
26 participant prior to making a deposit into a fantasy contest  
27 account for a participant located in this Commonwealth. No  
28 participant under 18 years of age may be permitted to  
29 establish a fantasy contest account with a licensed operator.

30 (3) Verify the identity of a participant by requiring

1 the participant to provide the licensed operator a unique  
2 user name and password prior to accessing a fantasy contest  
3 account.

4 (4) Ensure rules and prizes and awards established by  
5 the licensed operator for a fantasy contest are made known to  
6 a participant prior to the acceptance of any entry fee.

7 (5) Ensure that a player who is the subject of a fantasy  
8 contest is restricted from entering as a participant in a  
9 fantasy contest that is determined, in whole or part, on the  
10 accumulated statistical results of a team of individuals in  
11 the league in which the player is a member.

12 (6) Allow a person to restrict himself from entering a  
13 fantasy contest or accessing a fantasy contest account for a  
14 specific period of time as determined by the participant and  
15 implement reasonable procedures to prevent the individual  
16 from participating in the licensed operator's fantasy  
17 contests.

18 (7) Allow a person to restrict the total amount of  
19 deposits that the participant may pay to the licensed  
20 operator for a specific time period established by the  
21 participant and implement reasonable procedures to prevent  
22 the participant from exceeding the limit.

23 (8) Conspicuously post compulsive and problem play  
24 notices at fantasy contest registration points and provide a  
25 toll-free telephone number to participants who have expressed  
26 to the licensed operator issues with compulsive and problem  
27 play of fantasy contests. The toll-free telephone number and  
28 the compulsive and problem play notice shall be approved by  
29 the board, in consultation with the Department of Drug and  
30 Alcohol Programs.

1       (9) Disclose the number of entries a single participant  
2 may submit to each fantasy contest and take commercially  
3 reasonable steps to prevent such participants from submitting  
4 more than the allowable number.

5       (10) Prohibit the licensed operator's principals,  
6 employees and relatives living in the same household of an  
7 employee or principal from competing in a fantasy contest  
8 offered by any licensed operator to the general public and in  
9 which fantasy contest the licensed operator offers a prize or  
10 award.

11       (11) Prevent the sharing of confidential information  
12 that could affect fantasy contest play with third parties  
13 until the information is made publicly available.

14       (12) Take commercially reasonable steps to maintain the  
15 confidentiality of a participant's personal and financial  
16 information.

17       (13) Segregate participant funds from operational funds  
18 in separate accounts and maintain a reserve in the form of  
19 cash, cash equivalents, security deposits held by banks and  
20 processors, an irrevocable letter of credit, payment  
21 processor reserves and receivables, a bond or a combination  
22 thereof in an amount sufficient to pay all prizes and awards  
23 offered to winning participants. To satisfy this paragraph, a  
24 licensed operator that only offers season-long fantasy  
25 contests that generate less than \$250,000 in season-long  
26 fantasy contest adjusted revenue may contract with a third  
27 party to hold prizes and awards in an escrow account until  
28 after the season is concluded and prizes and awards are  
29 distributed.

30       (14) Provide winning in-State participants with

1 information and documentation necessary to ensure the proper  
2 reporting of winnings by in-State participants to the  
3 department.

4 (15) Remit taxes or assessments to the department in  
5 accordance with sections 331 (relating to fantasy contest  
6 tax), 332 (relating to licensed operator deposits) and 333  
7 (relating to responsibility and authority of department).

8 (16) Prohibit the use of scripts by participants and  
9 implement technologies to prevent the use of scripts.

10 (17) Monitor fantasy contests for the use of scripts and  
11 restrict players found to have used such scripts from  
12 participation in future fantasy contests.

13 (18) Establish any other condition deemed appropriate by  
14 the board.

15 § 326. Prohibitions.

16 (a) General rule.--No licensed operator may:

17 (1) accept an entry fee from or permit a natural person  
18 under 18 years of age to become a participant in a fantasy  
19 contest;

20 (2) offer a fantasy contest based, in whole or in part,  
21 on collegiate or high school athletic events or players;

22 (3) permit a participant to enter a fantasy contest  
23 prior to establishing a fantasy contest account;

24 (4) establish a fantasy contest account for a person who  
25 is not an individual;

26 (5) alter rules established for a fantasy contest after  
27 a participant has entered the fantasy contest;

28 (6) issue credit to a participant to establish or fund a  
29 fantasy contest account;

30 (7) knowingly directly market to a participant during

1 the time period in which the participant has self-excluded  
2 from the licensed operator's fantasy contests;

3 (8) knowingly permit a participant to enter the licensed  
4 operator's fantasy contests during the time period in which  
5 the participant has self-excluded from the licensed  
6 operators' fantasy contests;

7 (8.1) knowingly allow a self-excluded individual to keep  
8 a prize or award.

9 (9) knowingly accept a deposit in excess of a limit  
10 established by a participant for the specific time period  
11 established by the participant;

12 (10) share confidential information that could affect  
13 fantasy contest play with third parties until the information  
14 is made publicly available;

15 (11) knowingly permit a principal, an employee or a  
16 relative living in the same household of an employee or  
17 principal to become a participant in a fantasy contest  
18 offered by any licensed operator in which a licensed operator  
19 offers a prize or award;

20 (12) offer a fantasy contest where:

21 (i) the value of all prizes or awards offered to  
22 winning participants is not established and made known to  
23 participants in advance of the fantasy contest;

24 (ii) winning outcomes do not reflect the relative  
25 knowledge and skill of participants;

26 (iii) the winning outcome is based on the score,  
27 point spread or performance of a single actual team or  
28 combination of teams or solely on a single performance of  
29 an individual athlete or player in a single actual event;

30 or

1 (iv) the winning outcome is not based on statistical  
2 results accumulated from fully completed athletic sports  
3 contests or events, except that participants may be  
4 credited for statistical results accumulated in a  
5 suspended or shortened sports event which has been  
6 partially completed on account of weather or other  
7 natural or unforeseen event;

8 (13) fail to remit taxes or assessments to the  
9 department in accordance with sections 331 (relating to  
10 fantasy contest tax), 332 (relating to licensed operator  
11 deposits) and 333 (relating to responsibility and authority  
12 of department);

13 (14) knowingly allow a participant to use a script  
14 during a fantasy contest; and

15 (15) perform any other action prohibited by the board.

16 (b) Deposit.--The licensed operator shall deposit the amount  
17 of the prize or award under subsection (a) (8.1) in the General  
18 Fund.

19 § 327. Change in ownership or control of licensed operators.

20 (a) Notification and approval.--

21 (1) A licensed operator shall notify the board upon  
22 becoming aware of any proposed change of ownership of the  
23 licensed operator by a person or group of persons acting in  
24 concert which involves any of the following:

25 (i) More than 15% of a licensed operator's  
26 securities or other ownership interests.

27 (ii) The sale other than in the ordinary course of  
28 business of a licensed operator's assets.

29 (iii) Any other transaction or occurrence deemed by  
30 the board to be relevant to fantasy contest license

1           qualifications.

2           (2) Notwithstanding the provisions of paragraph (1), a  
3 licensed operator shall not be required to notify the board  
4 of any acquisition by an institutional investor under  
5 paragraph (1)(i) or (ii) if the institutional investor holds  
6 less than 10% of the securities or other ownership interests  
7 referred to in paragraph (1)(i) or (ii), the securities or  
8 interests are publicly traded securities and its holdings of  
9 such securities were purchased for investment purposes only  
10 and the institutional investor files with the board a  
11 certified statement to the effect that the institutional  
12 investor has no intention of influencing or affecting,  
13 directly or indirectly, the affairs of the licensed operator.  
14 However, the institutional investor may vote on matters put  
15 to the vote of the outstanding security holders. Notice to  
16 the board shall be required prior to completion of any  
17 proposed or contemplated change of ownership of a licensed  
18 operator that meets the criteria of this section.

19           (b) Qualification of purchaser and change of control.--

20           (1) A purchaser of the assets, other than in the  
21 ordinary course of business, of a licensed operator shall  
22 independently qualify for a fantasy contest license in  
23 accordance with this chapter and shall pay the application  
24 fee and license fee as required by sections 322 (relating to  
25 application) and 323 (relating to issuance and denial of  
26 license), except that if the purchaser of assets is another  
27 licensed operator, the purchaser of assets shall not be  
28 required to requalify for a fantasy contest license or pay  
29 another application fee and license fee.

30           (2) A change in control of any licensed operator shall

1 require that the licensed operator independently qualify for  
2 a fantasy contest license in accordance with this chapter,  
3 and the licensed operator shall pay a new application and  
4 license fee as required by sections 322 and 323, except that  
5 if the new controller is another licensed operator, the new  
6 controller shall not be required to requalify for a fantasy  
7 contest license or pay another application fee and license  
8 fee.

9 (c) License revocation.--Failure to comply with this section  
10 may cause the fantasy contest license issued under this chapter  
11 to be revoked or suspended by the board unless the purchase of  
12 the assets or the change in control that meets the criteria of  
13 this section has been independently qualified in advance by the  
14 board and any required application or license fee has been paid.

15 (d) Definitions.--As used in this section, the following  
16 words and phrases shall have the meanings given to them in this  
17 subsection unless the context clearly indicates otherwise:

18 "Change in control of a licensed operator." The acquisition  
19 by a person or group of persons acting in concert of more than  
20 20% of a licensed operator's securities or other ownership  
21 interests, with the exception of any ownership interest of the  
22 person that existed at the time of initial licensing and payment  
23 of the initial fantasy contest license fee, or more than 20% of  
24 the securities or other ownership interests of a corporation or  
25 other form of business entity that owns directly or indirectly  
26 at least 20% of the voting or other securities or other  
27 ownership interests of the licensed operator.

28 § 328. Penalties.

29 (a) Suspension or revocation of license.--

30 (1) After a public hearing with at least 15 days'

1 notice, the board may suspend or revoke a licensed operator's  
2 fantasy contest license in any case where a violation of this  
3 chapter has been shown by a preponderance of the evidence.

4 (2) The board may revoke a fantasy contest license if  
5 the board finds that facts not known by the board at the time  
6 the board considered the application indicate that such  
7 license should not have been issued.

8 (b) Administrative penalties.--

9 (1) In addition to suspension or revocation of a fantasy  
10 contest license, the board may impose administrative  
11 penalties on a licensed operator for violations of this  
12 chapter not to exceed \$5,000 for each violation.

13 (2) A violation of this chapter that is determined to be  
14 an offense of a continuing nature shall be deemed to be a  
15 separate offense on each event or day during which the  
16 violation occurs, except that the total administrative  
17 penalty for an offense of a continuing nature may not exceed  
18 \$25,000.

19 (3) The licensed operator shall have the right to appeal  
20 administrative penalties in accordance with 2 Pa.C.S. Chs. 5  
21 Subch. A (relating to practice and procedure of Commonwealth  
22 agencies) and 7 Subch. A (relating to judicial review of  
23 Commonwealth agency action).

24 (4) Penalties imposed under this subsection shall be  
25 deposited into the General Fund.

26 (c) Civil penalties.--

27 (1) In addition to the provisions of this section, a  
28 person who knowingly violates a provision of this chapter  
29 shall be liable for a civil penalty of not more than \$1,000  
30 for each such violation.



1 25% of the amounts ultimately found to be due, to be  
2 recovered by the department.

3 (2) Penalties imposed under this subsection shall be  
4 deposited in the General Fund.

5 § 332. Licensed operator deposits.

6 (a) Accounts established.--The State Treasurer shall  
7 establish within the State Treasury an account for each licensed  
8 operator for the deposit required under subsection (b) to:

9 (1) recover costs or expenses incurred by the board and  
10 the department in carrying out their powers and duties under  
11 this chapter based upon a budget submitted by the board and  
12 the department under subsection (c); and

13 (2) repay any loans made by the General Fund to the  
14 board or the department in connection with carrying out its  
15 powers and duties under this chapter.

16 (b) Deposits.--

17 (1) The department shall determine the appropriate  
18 assessment amount for each licensed operator, which shall be  
19 a percentage assessed on the licensed operator's fantasy  
20 contest adjusted revenues. Each licensed operator shall  
21 deposit funds into its account on a quarterly basis.

22 (2) The percentage assessed shall not exceed an amount  
23 necessary to:

24 (i) recover costs or expenses incurred by the board  
25 and the department in carrying out their powers and  
26 duties under this chapter based on a budget submitted by  
27 the board and the department under subsection (c); and

28 (ii) repay any loans made from the General Fund to  
29 the board in connection with carrying out its powers and  
30 duties under this chapter.

1 (c) Itemized budget reporting.--

2 (1) The board and the department shall prepare and  
3 annually submit to the chairperson of the Appropriations  
4 Committee of the Senate and the chairperson of the  
5 Appropriations Committee of the House of Representatives an  
6 itemized budget consisting of amounts to be appropriated out  
7 of the accounts established under this section necessary to  
8 administer this chapter.

9 (2) As soon as practicable after submitting copies of  
10 the itemized budget, the board and the department shall  
11 jointly prepare and submit to the chairperson of the  
12 committees analyses of and make recommendations regarding the  
13 itemized budget.

14 (d) Appropriation.--Costs and expenses from accounts  
15 established under subsection (a) shall only be disbursed upon  
16 appropriation by the General Assembly.

17 (e) Penalty.--

18 (1) A licensed operator who fails to timely remit to the  
19 department amounts required under this section shall be  
20 liable, in addition to any liability imposed elsewhere in  
21 this chapter, to a penalty of 5% per month up to a maximum of  
22 25% of the amounts ultimately found to be due, to be  
23 recovered by the department.

24 (2) Penalties imposed under this subsection shall be  
25 deposited into the General Fund.

26 § 333. Responsibility and authority of department.

27 (a) General rule.--The department may administer and collect  
28 taxes imposed under section 331 (relating to fantasy contest  
29 tax) and interest imposed under section 806 of the act of April  
30 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and

1 promulgate and enforce rules and regulations to carry out its  
2 prescribed duties in accordance with sections 331 and 332  
3 (relating to licensed operator deposits), including the  
4 collection of taxes, penalties, assessments and interest.

5 (b) Procedure.--For purposes of implementing sections 331  
6 and 332, the department may promulgate regulations in the same  
7 manner in which the board is authorized as provided in section  
8 312 (relating to temporary regulations).

9 SUPBCHAPTER E

10 MISCELLANEOUS PROVISIONS

11 Sec.

12 341. Applicability of other statutes.

13 342. Licensed gaming entities.

14 343. Funding.

15 § 341. Applicability of other statutes.

16 (a) Unlawful gambling.--The provisions of 18 Pa.C.S. § 5513  
17 (relating to gambling devices, gambling, etc.) shall not apply  
18 to a fantasy contest conducted in accordance with this chapter.

19 (b) Pool selling and bookmaking.--The provisions of 18  
20 Pa.C.S. § 5514 (relating to pool selling and bookmaking) shall  
21 not apply to a fantasy contest conducted in accordance with this  
22 chapter.

23 (c) Lotteries.--The provisions of 18 Pa.C.S. § 5512  
24 (relating to lotteries, etc.) shall not apply to a fantasy  
25 contest conducted in accordance with this chapter.

26 (d) State Lottery Law.--This chapter shall not apply to a  
27 fantasy contest or similar product authorized under the act of  
28 August 26, 1971 (P.L.351, No.91), known as the State Lottery  
29 Law, and authorized solely by the department and the Division of  
30 the State Lottery.

1 § 342. Licensed gaming entities.

2 (a) Scope.--This section shall apply to a licensed gaming  
3 entity that holds a fantasy contest license.

4 (b) Applicability.--Nothing in this chapter shall be  
5 construed to limit the board's general and sole regulatory  
6 authority over the conduct of gaming or related activities under  
7 Part II (relating to gaming), including, but not limited to, the  
8 certification, registration and regulation of gaming service  
9 providers and individuals and entities associated with them.

10 (c) Restricted contests.--A licensed gaming entity may offer  
11 fantasy contests that are exclusive to participants who are at  
12 least 21 years of age.

13 (d) Promotional play.--For a restricted contest under  
14 subsection (c), a licensed gaming entity may offer slot machine  
15 or table game promotional play to a participant who is at least  
16 21 years of age as a prize or award or for participating in a  
17 fantasy contest conducted by the licensed gaming entity.

18 (e) Gaming service providers.--A licensed operator who is  
19 not a licensed gaming entity may, at the discretion of the  
20 board, be certificated or registered as a gaming service  
21 provider under section 1317.2 (relating to gaming service  
22 provider) in order to operate fantasy contests subject to the  
23 restrictions of subsection (c) on behalf of a licensed gaming  
24 entity.

25 § 343. Funding.

26 (a) Appropriation.--The following amounts are appropriated:

27 (1) The sum of \$1,250,000 is appropriated to the board  
28 for the fiscal year period July 1, 2017, to June 30, 2018,  
29 for the purpose of implementing and administering the  
30 provisions of this chapter.

1           (2) The sum of \$500,000 is appropriated to the  
2           department for the fiscal period July 1, 2017, to June 30,  
3           2018, for the purpose of implementing and administering the  
4           provisions of this chapter.

5           (b) Repayment.--The appropriations in this section shall be  
6           considered loans from the General Fund and shall be repaid to  
7           the General Fund quarterly through assessments on licensed  
8           operators authorized under section 332 (relating to licensed  
9           operator deposits) by the department. The total amounts  
10           appropriated to the board and department under this section  
11           shall be repaid to the General Fund no later than 10 years from  
12           the date the board issues the first fantasy contest license.

13           (c) Unused amounts.--On July 1, 2018, any portion of amounts  
14           appropriated under subsection (a) that is unexpended,  
15           unencumbered or uncommitted as of June 30 of the prior fiscal  
16           year shall automatically be transferred to the General Fund.

17           Section 2. This act shall take effect as follows:

18                   (1) Except as set forth in paragraph (2)(ii), the  
19                   addition of 4 Pa.C.S. Ch. 3 shall take effect in 180 days.

20                   (2) The following provisions shall take effect  
21                   immediately:

22                           (i) This section.

23                           (ii) The addition of 4 Pa.C.S. § 343.