

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1324 Session of 2015

INTRODUCED BY WILLIAMS AND RESCHENTHALER, JUNE 17, 2016

SENATOR WARD, COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,
AS AMENDED, JUNE 27, 2016

AN ACT

1 Providing for fantasy contests; imposing duties upon the
2 Department of Revenue, the Department of Drug and Alcohol
3 Programs and the Pennsylvania Gaming Control Board; and
4 making appropriations.

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15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 CHAPTER 1

18 GENERAL PROVISIONS

19 Section 101. Short title.

20 This act shall be known and may be cited as the Fantasy
21 Sports Consumer Protection Act.

22 Section 102. Definitions.

23 The following words and phrases when used in this act shall
24 have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Board." The Pennsylvania Gaming Control Board.

27 "Conduct of gaming." The licensed placement, operation and
28 play of slot machines and table games under 4 Pa.C.S. (relating
29 to amusements) as authorized and approved by the board.

30 "Controlling interest." Either of the following:

1 (1) For a publicly traded domestic or foreign
2 corporation, a controlling interest is an interest ~~in an~~ <--
3 ~~applicant for a fantasy contest license or a licensed~~
4 ~~operator~~ if a person's sole voting rights under State law or
5 corporate articles or bylaws entitle the person to elect or
6 appoint one or more of the members of the board of directors
7 or other governing board or the ownership or beneficial
8 holding of 5% or more of the securities of the publicly
9 traded corporation, partnership, limited liability company or
10 other form of publicly traded legal entity, unless this
11 presumption of control or ability to elect is rebutted by
12 clear and convincing evidence.

13 (2) For a privately held domestic or foreign
14 corporation, partnership, limited liability company or other
15 form of privately held legal entity, a controlling interest
16 is the holding of securities of 15% or more in the legal
17 entity, unless this presumption of control is rebutted by
18 clear and convincing evidence.

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

20 "Entry fee." The cash or cash equivalent paid by a
21 participant to a licensed operator in order to participate in a
22 fantasy contest.

23 "Fantasy contest." An online fantasy or simulated game or
24 contest with an entry fee and a prize or award ADMINISTERED BY A <--
25 LICENSED OPERATOR in which:

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

29 (2) All winning outcomes reflect the relative knowledge
30 and skill of participants and are determined by accumulated

1 statistical results of the performance of individuals,
2 including athletes in the case of sports events.

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

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

11 "Fantasy contest adjusted revenues." For each fantasy
12 contest, the amount equal to the total amount of all entry fees
13 collected from all participants entering the fantasy contest
14 minus prizes or awards paid to participants in the fantasy
15 contest, multiplied by the in-State percentage.

16 "Fantasy contest license." A license issued by the board
17 authorizing a person to offer fantasy contests in this
18 Commonwealth in accordance with this act.

19 "Fantasy contest terminal." A physical, land-based
20 computerized or electronic terminal or similar device that
21 allows participants to:

- 22 (1) register for a fantasy contest account;
- 23 (2) pay an entry fee;
- 24 (3) select an imaginary team;
- 25 (4) receive winnings; or
- 26 (5) otherwise participate in a fantasy contest.

27 "Gaming floor." Any portion of a licensed facility where
28 slot machines or table games have been installed for use or
29 play.

30 "Gaming service provider." As defined in 4 Pa.C.S. § 1103

1 (relating to definitions).

2 "In-State participant." An individual who participates in a
3 fantasy contest conducted by a licensed operator and pays a fee
4 to a licensed operator from a location within this Commonwealth.
5 The term includes an individual who pays an entry fee through a
6 fantasy contest terminal within a licensed facility.

7 "In-State percentage." For each fantasy contest, the
8 percentage, rounded to the nearest tenth of a percent, equal to
9 the total entry fees collected from all in-State participants
10 divided by the total entry fees collected from all participants
11 in the fantasy contest.

12 "Key employee." An individual who is employed by an
13 applicant for a fantasy contest license or a licensed operator
14 in a director or department head capacity and who is empowered
15 to make discretionary decisions that regulate fantasy contest
16 operations as determined by the board.

17 "Licensed entity representative." A person, including an
18 attorney, agent or lobbyist, acting on behalf of or authorized
19 to represent the interest of an applicant, licensee or other
20 person authorized by the board to engage in an act or activity
21 which is regulated under this act regarding a matter before, or
22 which may be reasonably be expected to come before, the board.

23 "Licensed facility." As defined in 4 Pa.C.S. § 1103
24 (relating to definitions).

25 "Licensed gaming entity." As defined in 4 Pa.C.S. § 1103
26 (relating to definitions).

27 "Licensed operator." A person who holds a fantasy contest
28 license.

29 "Participant." An individual who participates in a fantasy
30 contest, whether the individual is located in this Commonwealth

1 or another jurisdiction.

2 "Person." A natural person, corporation, publicly traded
3 corporation, foundation, organization, business trust, estate,
4 limited liability company, licensed corporation, trust,
5 partnership, limited liability partnership, association or any
6 other form of legal business entity.

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

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

24 "Publicly traded corporation." A person, other than an
25 individual, that:

26 (1) has a class or series of securities registered under
27 the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C.
28 § 78a et seq.);

29 (2) is a registered management company under the
30 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §

1 80a-1 et seq.); or

2 (3) is subject to the reporting obligations imposed by
3 section 15(d) of the Securities Exchange Act of 1934 by
4 reason of having filed a registration statement that has
5 become effective under the Securities Act of 1933 (48 Stat.
6 74, 15 U.S.C. § 77a et seq.).

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

11 "Season-long fantasy sports contest." A fantasy contest
12 offered by a licensed operator or that is conducted over an
13 entire sports season where any entry fees are paid prior to the
14 start of the season.

15 CHAPTER 3

16 ADMINISTRATION

17 Section 301. General and specific powers of board.

18 (a) General powers.--

19 (1) The board shall have regulatory authority over
20 licensed operators, principals and key employees and shall
21 ensure the integrity of fantasy contests offered in this
22 Commonwealth in accordance with this act.

23 (2) The board may employ individuals as necessary to
24 carry out the requirements of this act, who shall serve at
25 the board's pleasure. An employee of the board shall be
26 considered a State employee for purposes of 71 Pa.C.S. Pt.
27 XXV (relating to retirement for State employees and
28 officers).

29 (b) Specific powers.--The board shall have the following
30 powers:

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

3 (2) At the board's discretion, to suspend, condition or
4 deny the issuance or renewal of a license or levy fines for
5 any violation of this act.

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

11 (4) To prepare and, through the Governor, submit
12 annually to the General Assembly an itemized budget
13 consistent with Article VI of the act of April 9, 1929
14 (P.L.177, No.175), known as The Administrative Code of 1929,
15 consisting of the amounts necessary to be appropriated by the
16 General Assembly out of the accounts established under
17 section 702 required to meet the obligations under this act
18 accruing during the fiscal period beginning July 1 of the
19 following year.

20 (5) In the event that, in any year, appropriations for
21 the administration of this act are not enacted by June 30,
22 any funds appropriated for the administration of this act
23 which are unexpended, uncommitted and unencumbered at the end
24 of a fiscal year shall remain available for expenditure by
25 the board until the enactment of appropriation for the
26 ensuing fiscal year.

27 (6) To promulgate rules and regulations necessary for
28 the administration and enforcement of this act. Except as
29 provided in section 302, regulations shall be adopted under
30 the act of July 31, 1968 (P.L.769, No.240), referred to as

1 the Commonwealth Documents Law, and the act of June 25, 1982
2 (P.L.633, No.181), known as the Regulatory Review Act.

3 (7) To administer oaths, examine witnesses and issue
4 subpoenas compelling the attendance of witnesses or the
5 production of documents and records or other evidence or to
6 designate officers or employees to perform duties required by
7 this act.

8 (8) At the board's discretion, to delegate any of the
9 board's responsibilities under this act to the executive
10 director of the board or other designated staff.

11 (9) To require licensed operators and applicants for a
12 fantasy contest license to submit any information or
13 documentation necessary to ensure the proper regulation of
14 fantasy contests in accordance with this act.

15 (10) To require licensed operators, except for a
16 licensed operator operating season-long ~~contests~~, FANTASY <--
17 CONTESTS WHICH GENERATE LESS THAN \$250,000 IN SEASON-LONG
18 FANTASY CONTEST ADJUSTED REVENUE, UNLESS THE BOARD DETERMINES
19 OTHERWISE, to:

20 (i) annually contract with a certified public
21 accountant to conduct an independent audit in accordance
22 with standards adopted by the American Institute of
23 Certified Public Accountants to verify compliance with
24 the provisions of this act and board regulations;

25 (ii) annually contract with a testing laboratory
26 approved by the board to verify compliance with the
27 provisions of this act and board regulations; and

28 (iii) annually submit to the board and department a
29 copy of the audit report required by subparagraph (i) and
30 submit to the board a copy of the report of the testing

1 laboratory required by subparagraph (ii).

2 (11) In conjunction with the Department of Drug and
3 Alcohol Programs, to develop a process by which licensed
4 operators provide participants with a SINGLE toll-free <--
5 telephone number that provides individuals with information
6 on how to access appropriate treatment services for
7 compulsive and problem play.

8 (12) At the board's discretion, to permit the placement
9 and operation of fantasy contest terminals within licensed
10 facilities and to ensure the integrity of fantasy contest
11 terminals.

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

13 (1) A licensed entity representative shall register with
14 the board, in a manner prescribed by the board. The
15 registration shall include the name, employer or firm,
16 business address and business telephone number of both the
17 licensed entity representative and any licensed operator,
18 applicant for licensure or other person being represented.

19 (2) A licensed entity representative shall have an
20 affirmative duty to update its registration information on an
21 ongoing basis. Failure to update shall be punishable by the
22 board.

23 (3) The board shall maintain a list of licensed entity
24 representatives which shall contain the information required
25 under paragraph (1) and shall be available for public
26 inspection at the offices of the board and on the board's
27 publicly accessible Internet website.

28 (c) Exceptions.--Except as provided under section 902,
29 nothing in this section shall be construed to authorize the
30 board:

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

4 (2) To require any additional permits or licenses not
5 specifically enumerated in this act.

6 (3) To impose additional conditions of licensure on
7 licensed operators or prohibitions on the operation of
8 fantasy contests not specifically enumerated in this act.

9 Section 302. Temporary regulations.

10 (a) Promulgation.--In order to facilitate the prompt
11 implementation of this act, regulations promulgated by the board
12 shall be deemed temporary regulations and shall expire no later
13 than two years following the effective date of this section. The
14 board may promulgate temporary regulations not subject to:

15 (1) Sections 201, 202 and 203 of the act of July 31,
16 1968 (P.L.769, No.240), referred to as the Commonwealth
17 Documents Law.

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

20 (b) Expiration.--Except for temporary regulations concerning
21 network connectivity, security and testing and compulsive and
22 problem play, the authority provided to the board to adopt
23 temporary regulations in subsection (a) shall expire no later
24 than two years following the effective date of this section.
25 Regulations adopted after this period shall be promulgated as
26 provided by law.

27 Section 303. Fantasy contest license appeals.

28 An applicant OR A LICENSEE may appeal any final order,
29 determination or decision of the board involving the approval,
30 issuance, denial, revocation or conditioning of a fantasy

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1 contest license in accordance with 2 Pa.C.S. Chs. 5 Subch. A
2 (relating to practice and procedure of Commonwealth agencies)
3 and 7 Subch. A (relating to judicial review of Commonwealth
4 agency action).

5 Section 304. Board minutes and records.

6 (a) Record of proceedings.--The board shall maintain a
7 record of all proceedings held at public meetings of the board.
8 The verbatim transcript of the proceedings shall be the property
9 of the board and shall be prepared by the board upon the request
10 of any board member or upon the request of any other person and
11 the payment by that person of the costs of preparation.

12 (b) Applicant information.--

13 (1) The board shall maintain a list of all applicants
14 for a fantasy contest license. The list shall include a
15 record of all actions taken with respect to each applicant.
16 The list shall be open to public inspection during the normal
17 business hours of the board.

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

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

24 (d) Confidentiality of information.--

25 (1) The following information submitted by an applicant
26 for a fantasy contest license under section 502 or otherwise
27 obtained by the board as part of a background or other
28 investigation from any source shall be confidential and
29 withheld from public disclosure:

30 (i) All information relating to character, honesty

1 and integrity, including family, habits, reputation,
2 history of criminal activity, business activities,
3 financial affairs and business, professional and personal
4 associations.

5 (ii) Nonpublic personal information, including home
6 addresses, telephone numbers and other personal contact
7 information, Social Security numbers, educational
8 records, memberships, medical records, tax returns and
9 declarations, actual or proposed compensation, financial
10 account records, creditworthiness or financial condition
11 relating to an applicant.

12 (iii) Information relating to proprietary
13 information, trade secrets, patents or exclusive
14 licenses, architectural and engineering plans and
15 information relating to competitive marketing materials
16 and strategies that may include customer-identifying
17 information or customer prospects for services subject to
18 competition.

19 (iv) Information with respect to which there is a
20 reasonable possibility that public release or inspection
21 of the information would constitute an unwarranted
22 invasion into personal privacy of an individual as
23 determined by the board.

24 (v) Records of an applicant for a fantasy contest
25 license or a licensed operator not required to be filed
26 with the Securities and Exchange Commission by issuers
27 that either have securities registered under section 12
28 of the Securities Exchange Act of 1934 (48 Stat. 881, 15
29 U.S.C. § 781) or are required to file reports under
30 section 15(d) of the Securities Exchange Act of 1934 (48

1 Stat. 881, 15 U.S.C. § 78o)

2 (vi) Records considered nonpublic matters or
3 information by the Securities and Exchange Commission as
4 provided by 17 CFR 200.80 (relating to commission records
5 and information).

6 (vii) Financial or security information deemed
7 confidential by the board upon a showing of good cause by
8 the applicant for a fantasy contest license or licensed
9 operator.

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

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

18 (4) The information made confidential under this section
19 shall be withheld from public disclosure, in whole or in
20 part, except that any confidential information shall be
21 released upon the order of a court of competent jurisdiction
22 or, with the approval of the Attorney General, to a duly
23 authorized law enforcement agency or shall be released to the
24 public, in whole or in part, to the extent that such release
25 is requested by an applicant for a fantasy contest license or
26 licensed operator and does not otherwise contain confidential
27 information about another person.

28 (5) The board may seek a voluntary waiver of
29 confidentiality from an applicant for a fantasy contest
30 license or a licensed operator, but may not require an

1 applicant or licensed operator to waive any confidentiality
2 provided for in this subsection as a condition for the
3 approval of an application, renewal of a fantasy contest
4 license or any other action of the board.

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

9 (f) Information held by department.--Files, records, reports
10 and other information in the possession of the department
11 pertaining to licensed operators shall be made available to the
12 board as may be necessary for the effective administration of
13 this act.

14 Section 305. Reports of board.

15 (a) General rule.--The annual report submitted by the board
16 under 4 Pa.C.S. § 1211 (relating to reports of board) shall
17 include the following information on the conduct of fantasy
18 contests:

19 (1) Total fantasy contest adjusted revenues.

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

24 (3) At the board's discretion, any other information
25 related to the conduct of fantasy contests or licensed
26 operators.

27 (b) Licensed operators.--The board may require licensed
28 operators to provide information to the board to assist in the
29 preparation of the report.

30 CHAPTER 5

LICENSURE

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Section 501. General prohibition.

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

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

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

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

Section 502. Application.

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

(1) The name, Federal employer identification number and principal address of the applicant; if a corporation, the state of its incorporation, the full name and address of each officer and director thereof, and, if a foreign corporation, whether it is qualified to do business in this Commonwealth; if a partnership or joint venture, the name and address of each officer thereof.

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

(3) The names and addresses of key employees.

(4) The names and addresses of each of the applicant's

1 principals.

2 (5) Information, documentation and assurances related to
3 financial and criminal history as the board deems necessary
4 to establish by clear and convincing evidence the financial
5 stability, integrity and responsibility of the applicant and
6 the applicant's key employees and principals.

7 (6) Information and documentation necessary to establish
8 the applicant's ability to comply with section 505.

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

10 (b) Nonrefundable application fee.--Each application
11 submitted under this act shall be accompanied by a nonrefundable
12 application fee, which shall be established by the board, and
13 which may not exceed the amount necessary to reimburse the board
14 for all costs incurred by the board for fulfilling the
15 requirements of this section and section 503~~7~~. AND, IF THE <--
16 APPLICANT IS NOT A LICENSED GAMING ENTITY, MAY NOT EXCEED AN
17 AMOUNT EQUAL TO 5% OF THE APPLICANT'S FANTASY CONTEST ADJUSTED
18 REVENUE FOR THE PREVIOUS CALENDER YEAR.

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

23 (d) Abbreviated application process.--The board, at its
24 discretion, may establish an abbreviated application process for
25 a fantasy contest license for persons that are also licensed
26 gaming entities. The abbreviated application may only require
27 information not in possession of the board that is necessary to
28 fulfill the requirements of this act.

29 Section 503. Issuance and denial of license.

30 (a) Duty to review applications.--The board shall review all

1 applications for a license and shall issue a license to any
2 applicant that:

3 (1) Has submitted a completed application and paid the
4 nonrefundable application fee as required by the board under
5 section 502.

6 (2) Has demonstrated that the applicant has the
7 financial stability, integrity and responsibility to comply
8 with the provisions of this act and regulations established
9 by the board.

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

11 (b) Reasons to deny applications.--The board may deny an
12 application for a license if the applicant:

13 (1) has knowingly made a false statement of material
14 fact or has deliberately failed to disclose any information
15 requested;

16 (2) employs a principal or key employee who has been
17 convicted of a felony, a crime of moral turpitude or any
18 criminal offense involving dishonesty or breach of trust
19 within 10 years prior to the date of the application for
20 license;

21 (3) has at any time knowingly failed to comply with the
22 provisions of this act or of any requirements of the board;

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

25 (5) has legally defaulted in the payment of any
26 obligation or debt due to the Commonwealth or is not
27 compliant with taxes due ~~to the department~~; or

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28 (6) is not qualified to do business in this Commonwealth
29 or is not subject to the jurisdiction of the courts of the
30 Commonwealth.

1 (c) Time period for review.--The board shall conclude its
2 review of an application for a fantasy contest license within
3 120 days of receipt of the completed application. If the license
4 is not issued, the board shall provide the applicant with the
5 justification for not issuing such license with specificity.

6 (d) License fee.--

7 (1) Within 30 days of the board issuing a fantasy
8 contest license, an applicant shall pay to the board a
9 license fee of \$50,000 or an amount equivalent to 7.5% of the
10 applicant's fantasy contest adjusted revenues for the
11 previous calendar year, whichever is less, except that an
12 applicant who is also a licensed gaming entity shall pay to
13 the board a license fee of \$50,000.

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

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

20 (e) Abbreviated approval process.--The board, at its
21 discretion, may establish an abbreviated approval process for
22 the issuance of a fantasy contest license to a licensed gaming
23 entity whose slot machine license and table game certificate are
24 in good standing.

25 Section 504. License renewal.

26 (a) Renewal.--

27 (1) A license issued under this act shall be valid for a
28 period of five years.

29 (2) Nothing in this paragraph shall be construed to
30 relieve a licensed operator of the affirmative duty to notify

1 the board of any changes relating to the status of its
2 fantasy contest license or to any other information contained
3 in the application materials on file with the board.

4 (3) The application for renewal of a fantasy contest
5 license must be submitted at least 90 days prior to the
6 expiration of the license and include an update of the
7 information contained in the initial application for a
8 fantasy contest license. A fantasy contest license for which
9 a completed renewal application and fee as required under
10 subsection (c) has been received by the board shall continue
11 in effect unless and until the board sends written
12 notification to the licensed operator that the board has
13 denied the renewal of the license.

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

15 (1) In addition to any other sanction the board may
16 impose under this act, the board may at its discretion
17 suspend, revoke or deny renewal of a fantasy contest license
18 issued under this act if it receives information that:

19 (i) the applicant or any of the applicant's key
20 employees or principals are in violation of any provision
21 of this act;

22 (ii) the applicant has furnished the board with
23 false or misleading information;

24 (iii) the information contained in the applicant's
25 initial application or any renewal application is no
26 longer true and correct;

27 (iv) the applicant has failed to remit taxes or
28 assessments required under section 701, 702 or 703; or

29 (v) the applicant has legally defaulted in the
30 payment of any obligation or debt due to the

1 Commonwealth.

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

6 (3) In the event of a suspension, the applicant's
7 authorization to conduct fantasy contests shall immediately
8 cease until the board has notified the applicant that the
9 suspension is no longer in effect.

10 (c) Renewal fee.--

11 (1) Within 30 days of the board renewing a fantasy
12 contest license, the licensed operator shall pay to the board
13 a renewal fee of \$5,000 or an amount equivalent to 7.5% of
14 the applicant's fantasy contest adjusted revenues, whichever
15 is less.

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

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

22 Section 505. Conditions of licensure.

23 As a condition of licensure, a licensed operator shall
24 establish and implement the following procedures related to
25 conduct of fantasy contests in this Commonwealth:

26 (1) Permit only participants who have established a
27 fantasy contest account with the licensed operator to
28 participate in a fantasy contest conducted by the licensed
29 operator.

30 (2) Verify the age, location and identity of any

1 participant prior to making a deposit into a fantasy contest
2 account for a participant located in this Commonwealth. No
3 participant under 18 years of age may be permitted to
4 establish a fantasy contest account with a licensed operator.

5 (3) Verify the identity of a participant by requiring
6 the participant to provide the licensed operator a unique
7 user name and password prior to accessing a fantasy contest
8 account.

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

12 (5) Ensure that a player who is the subject of a fantasy
13 contest is restricted from entering as a participant in a
14 fantasy contest that is determined, in whole or part, on the
15 accumulated statistical results of a team of individuals in
16 the league in which the player is a member.

17 (6) Allow ~~a person~~ AN INDIVIDUAL to restrict himself <--
18 from entering a fantasy contest or accessing a fantasy
19 contest account for a specific period of time as determined
20 by the participant and implement reasonable procedures to
21 prevent the individual from participating in the licensed
22 operator's fantasy contests.

23 (7) Allow a person to restrict the total amount of
24 deposits that the participant may pay to the licensed
25 operator for a specific time period established by the
26 participant and implement reasonable procedures to prevent
27 the participant from exceeding the limit.

28 (8) Conspicuously post compulsive and problem play
29 notices at fantasy contest registration points and provide a
30 SINGLE toll-free telephone number to participants who have <--

1 expressed to the licensed operator issues with compulsive and
2 problem play of fantasy contests. The toll-free telephone
3 number and the compulsive and problem play notice shall be
4 approved by the board, in consultation with the Department of
5 Drug and Alcohol Programs.

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

10 (10) Prevent the licensed operator's PRINCIPALS, <--
11 employees and relatives living in the same household ~~of~~ AS A <--
12 PRINCIPAL OR an employee from competing in a fantasy contest
13 offered by any licensed operator to the general public and in
14 which fantasy contest the licensed operator offers a prize or
15 award.

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

19 (12) Take commercially reasonable steps to maintain the
20 confidentiality of a participant's personal and financial
21 information.

22 (13) Segregate participant funds from operational funds
23 in separate accounts and maintain a reserve in the form of
24 cash, cash equivalents, security deposits held by banks and
25 processors, an irrevocable letter of credit, payment
26 processor reserves and receivables, a bond or a combination
27 thereof in an amount sufficient to pay all prizes and awards
28 offered to winning participants. TO SATISFY THIS PARAGRAPH, A <--
29 LICENSED OPERATOR THAT ONLY OFFERS SEASON-LONG FANTASY
30 CONTESTS WHICH GENERATE LESS THAN \$250,000 IN SEASON-LONG

1 FANTASY CONTEST ADJUSTED REVENUE MAY CONTRACT WITH A THIRD
2 PARTY TO HOLD PRIZES AND AWARDS IN AN ESCROW ACCOUNT UNTIL
3 AFTER THE SEASON IS CONCLUDED, WHEN PRIZES AND AWARDS SHALL
4 BE DISTRIBUTED.

5 (14) Provide winning in-State participants with
6 information and documentation necessary to ensure the proper
7 reporting of winnings by in-State participants to the
8 department.

9 (15) Remit taxes or assessments to the department in
10 accordance with sections 701, 702 and 703.

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

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

16 (18) Establish any other condition deemed appropriate by
17 the board.

18 Section 506. Prohibitions.

19 ~~NO~~ (A) ACTIONS.--NO licensed operator may: <--

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

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

25 (3) permit a participant to enter a fantasy contest
26 prior to establishing a fantasy contest account;

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

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

1 (6) issue credit to a participant to establish or fund a
2 fantasy contest account;

3 (7) knowingly directly market to a ~~participant~~ SELF- <--
4 EXCLUDED INDIVIDUAL during the time period in which the
5 ~~participant~~ INDIVIDUAL has self-excluded from the licensed <--
6 operators' fantasy contests;

7 (8) knowingly permit a ~~participant~~ SELF-EXCLUDED <--
8 INDIVIDUAL to enter the licensed operator's fantasy contests
9 during the time period in which the ~~participant~~ INDIVIDUAL <--
10 has self-excluded from the licensed operators' fantasy
11 contests;

12 (8.1) KNOWINGLY ALLOW A SELF-EXCLUDED INDIVIDUAL TO KEEP <--
13 A PRIZE OR AWARD;

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

17 (10) share confidential information that could affect
18 fantasy contest play with third parties until the information
19 is made publicly available;

20 (11) knowingly permit A PRINCIPAL, an employee or A <--
21 relative living in the same household ~~of~~ AS A PRINCIPAL OR an <--
22 employee to become a participant in a fantasy contest offered
23 by any licensed operator in which a licensed operator offers
24 a prize or award;

25 (12) offer a fantasy contest where:

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

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

1 (iii) the winning outcome is based on the score,
2 point spread or performance of a single actual team or
3 combination of teams or solely on a single performance of
4 an individual athlete or player in a single actual event;
5 or

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

13 (13) except as permitted under section 902, offer or
14 make available in this Commonwealth a fantasy contest
15 terminal;

16 (14) fail to remit taxes or assessments to the
17 department in accordance with sections 701, 702 and 703;

18 (15) knowingly allow a participant to use a script
19 during a fantasy contest; and

20 (16) perform any other action prohibited by the board.

21 (B) DEPOSIT.--THE LICENSED OPERATOR SHALL DEPOSIT THE AMOUNT <--
22 OF THE PRIZE OR AWARD UNDER SUBSECTION (A) (8.1) IN THE GENERAL
23 FUND.

24 Section 507. Change in ownership or control of licensed
25 operators.

26 (a) Notification and approval.--

27 (1) A licensed operator shall notify the board upon
28 becoming aware of any proposed change of ownership of the
29 licensed operator by a person or group of persons acting in
30 concert which involves any of the following:

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

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

5 (iii) Any other transaction or occurrence deemed by
6 the board to be relevant to fantasy contest license
7 qualifications.

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

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

27 (1) A purchaser of the assets, other than in the
28 ordinary course of business, of a licensed operator shall
29 independently qualify for a fantasy contest license in
30 accordance with this act and shall pay the application fee

1 and license fee as required by sections 502 and 503, except
2 that if the purchaser of assets is another licensed operator,
3 the purchaser of assets shall not be required to requalify
4 for a fantasy contest license or pay another application fee
5 and license fee.

6 (2) A change in control of any licensed operator shall
7 require that the licensed operator independently qualify for
8 a fantasy contest license in accordance with this act, and
9 the licensed operator shall pay a new application and license
10 fee as required by sections 502 and 503, except that if the
11 new controller is another licensed operator, the new
12 controller shall not be required to requalify for a fantasy
13 contest license or pay another application fee and license
14 fee.

15 (c) Change in control defined.--For purposes of this
16 section, a change in control of a licensed operator shall mean
17 the acquisition by a person or group of persons acting in
18 concert of more than 20% of a licensed operator's securities or
19 other ownership interests, with the exception of any ownership
20 interest of the person that existed at the time of initial
21 licensing and payment of the initial fantasy contest license
22 fee, or more than 20% of the securities or other ownership
23 interests of a corporation or other form of business entity that
24 owns directly or indirectly at least 20% of the voting or other
25 securities or other ownership interests of the licensed
26 operator.

27 (d) License revocation.--Failure to comply with this section
28 may cause the fantasy contest license issued under this act to
29 be revoked or suspended by the board unless the purchase of the
30 assets or the change in control that meets the criteria of this

1 section has been independently qualified in advance by the board
2 and any required application or license fee has been paid.

3 Section 508. Penalties.

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

5 (1) After a public hearing with at least 15 days'
6 notice, the board may suspend or revoke a licensed operator's
7 fantasy contest license in any case where a violation of this
8 act has been shown by a preponderance of the evidence.

9 (2) The board may revoke a fantasy contest license if
10 the board finds that facts not known by the board at the time
11 the board considered the application indicate that such
12 license should not have been issued.

13 (b) Administrative penalties.--

14 (1) In addition to suspension or revocation of a fantasy
15 contest license, the board may impose administrative
16 penalties on a licensed operator for violations of this act
17 not to exceed \$5,000 for each violation.

18 (2) A violation of this act that is determined to be an
19 offense of a continuing nature shall be deemed to be a
20 separate offense on each event or day during which the
21 violation occurs, except that the total administrative
22 penalty for an offense of a continuing nature may not exceed
23 \$25,000.

24 (3) The licensed operator shall have the right to appeal
25 administrative penalties in accordance with 2 Pa.C.S. Chs. 5
26 Subch. A (relating to practice and procedure of Commonwealth
27 agencies) and 7 Subch. A (relating to judicial review of
28 Commonwealth agency action).

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

1 (c) Civil penalties.--

2 (1) In addition to the provisions of this section, a
3 person who knowingly violates a provision of this act shall
4 be liable for a civil penalty of not more than \$1,000 for
5 each such violation.

6 (2) The civil penalty shall be recovered in a civil
7 action brought by the board and shall be paid into the
8 General Fund.

9 CHAPTER 7

10 FISCAL PROVISIONS

11 Section 701. Fantasy contest tax.

12 (a) Imposition.--Each licensed operator shall report to the
13 department and pay from its quarterly fantasy contest adjusted
14 revenues, on a form and in the manner prescribed by the
15 department, a tax of ~~5%~~ 18% of its quarterly fantasy contest <--
16 adjusted revenues.

17 (b) Deposits and distributions.--

18 (1) The tax imposed under subsection (a) shall be
19 payable to the department on a quarterly basis and shall be
20 based upon quarterly fantasy contest adjusted revenue derived
21 during the previous quarter.

22 (2) All funds owed to the Commonwealth under this
23 section shall be held in trust for the Commonwealth by the
24 licensed operator until the funds are paid to the department.

25 (3) The tax imposed under subsection (a) shall be
26 deposited into the General Fund.

27 (c) Penalty.--

28 (1) A licensed operator who fails to timely remit to the
29 department amounts required under this section shall be
30 liable, in addition to any liability imposed elsewhere in

1 this act, to a penalty of 5% per month up to a maximum of 25%
2 of the amounts ultimately found to be due, to be recovered by
3 the department.

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

6 Section 702. Licensed operator deposits.

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

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

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

18 (b) Deposits.--

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

24 (2) The percentage assessed shall not exceed an amount
25 necessary to:

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

30 (ii) repay any loans made from the General Fund to

1 the board in connection with carrying out its powers and
2 duties under this act.

3 (c) Itemized budget reporting.--

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

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

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

19 (e) Penalty.--

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

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

28 Section 703. Responsibility and authority of department.

29 (a) General rule.--The department may administer and collect
30 taxes imposed under section 701 and interest imposed under

1 section 806 of the act of April 9, 1929 (P.L.343, No.176), known
2 as The Fiscal Code, and promulgate and enforce rules and
3 regulations to carry out its prescribed duties in accordance
4 with sections 701 and 702, including the collection of taxes,
5 penalties, assessments and interest.

6 (b) Procedure.--For purposes of implementing sections 701
7 and 702, the department may promulgate regulations in the same
8 manner in which the board is authorized as provided in section
9 302.

10 CHAPTER 9

11 MISCELLANEOUS PROVISIONS

12 Section 901. Applicability of other statutes.

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

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

20 (c) Lotteries.--The provisions of 18 Pa.C.S. § 5512
21 (relating to lotteries, etc.) shall not apply to a fantasy
22 contest conducted in accordance with this act.

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

28 Section 902. Licensed gaming entities.

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

1 (b) Applicability.--

2 (1) Nothing in this act shall be construed to limit the
3 board's general and sole regulatory authority over the
4 conduct of gaming or related activities under 4 Pa.C.S.

5 (relating to amusements), including, but not limited to, the
6 certification, registration and regulation of gaming service
7 providers and individuals and entities associated with them.

8 (2) A fantasy contest terminal shall not be considered a
9 "slot machine" or "table game" under 4 Pa.C.S. § 1103
10 (relating to definitions).

11 (c) Fantasy contest terminals.--

12 (1) Upon approval of a fantasy contest license
13 application, a licensed gaming entity may place and operate
14 fantasy contest terminals within the licensed gaming entity's
15 licensed facility.

16 (2) At its discretion, the board may approve the
17 placement and operation of fantasy contest terminals at a
18 location within the licensed facility, provided that fantasy
19 contest terminals shall not be placed on the gaming floor.

20 (d) Restricted contests.--A licensed gaming entity may offer
21 fantasy contests that are exclusive to participants who are at
22 least 21 years of age.

23 (e) Promotional play.--For a restricted contest under
24 subsection (d), a licensed gaming entity may offer slot machine
25 or table game promotional play to a participant who is at least
26 21 years of age as a prize or award or for participating in a
27 fantasy contest conducted by the licensed gaming entity.

28 (f) Gaming service providers.--A licensed operator who is
29 not a licensed gaming entity may, at the discretion of the
30 board, be certificated or registered as a gaming service

1 provider under 4 Pa.C.S. § 1317.2 (relating to gaming service
2 provider) in order to operate fantasy contests subject to the
3 restrictions of subsection (d) on behalf of a licensed gaming
4 entity.

5 Section 903. Funding.

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

7 (1) The sum of \$1,250,000 is appropriated to the board
8 for the fiscal period July 1, 2016, to June 30, 2017, for the
9 purpose of implementing and administering the provisions of
10 this act.

11 (2) The sum of \$500,000 is appropriated to the
12 department for the fiscal period July 1, 2016, to June 30,
13 2017, for the purpose of implementing and administering the
14 provisions of this act.

15 (b) Repayment.--The appropriations in this section shall be
16 considered loans from the General Fund and shall be repaid to
17 the General Fund quarterly through assessments on licensed
18 operators authorized under section 702 by the department. The
19 total amounts appropriated to the board and department under
20 this section shall be repaid to the General Fund no later than
21 10 years from the date the board issues the first fantasy
22 contest license.

23 (c) Unused amounts.--On July 1, 2017, any portion of amounts
24 appropriated under subsection (a) that is unexpended,
25 unencumbered or uncommitted as of June 30 of the prior fiscal
26 year shall automatically be transferred to the General Fund.

27 Section 904. Effective date.

28 This act shall take effect as follows:

29 (1) Section 903 shall take effect immediately.

30 (2) This section shall take effect immediately.

1 (3) The remainder of this act shall take effect in 180
2 days.