

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1324 Session of
2015

INTRODUCED BY WILLIAMS AND RESCHENTHALER, JUNE 17, 2016

AS AMENDED ON SECOND CONSIDERATION, JUNE 28, 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.

5 TABLE OF CONTENTS

6 Chapter 1. General Provisions

7 Section 101. Short title.

8 Section 102. Definitions.

9 Chapter 3. Administration

10 Section 301. General and specific powers of board.

11 Section 302. Temporary regulations.

12 Section 303. Fantasy contest license appeals.

13 Section 304. Board minutes and records.

14 Section 305. Reports of board.

15 Chapter 5. Licensure

16 Section 501. General prohibition.

17 Section 502. Application.

18 Section 503. Issuance and denial of license.

19 Section 504. License renewal.

1 Section 505. Conditions of licensure.
2 Section 506. Prohibitions.
3 Section 507. Change in ownership or control of licensed
4 operators.
5 Section 508. Penalties.
6 Chapter 7. Fiscal Provisions
7 Section 701. Fantasy contest tax.
8 Section 702. Licensed operator deposits.
9 Section 703. Responsibility and authority of department.
10 Chapter 9. Miscellaneous Provisions
11 Section 901. Applicability of other statutes.
12 Section 902. Licensed gaming entities.
13 Section 903. Funding.
14 Section 904. Effective date.

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 if a
3 person's sole voting rights under State law or corporate
4 articles or bylaws entitle the person to elect or appoint one
5 or more of the members of the board of directors or other
6 governing board or the ownership or beneficial holding of 5%
7 or more of the securities of the publicly traded corporation,
8 partnership, limited liability company or other form of
9 publicly traded legal entity, unless this presumption of
10 control or ability to elect is rebutted by clear and
11 convincing evidence.

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

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

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

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

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

28 (2) All winning outcomes reflect the relative knowledge
29 and skill of participants and are determined by accumulated
30 statistical results of the performance of individuals,

1 including athletes in the case of sports events.

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

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

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

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

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

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

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

29 "Gaming service provider." As defined in 4 Pa.C.S. § 1103
30 (relating to definitions).

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (2) is a registered management company under the
29 Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. §
30 80a-1 et seq.); or

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

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

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

14 CHAPTER 3

15 ADMINISTRATION

16 Section 301. General and specific powers of board.

17 (a) General powers.--

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

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

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

30 (1) At the board's discretion, to issue, approve, renew,

1 revoke, suspend, condition or deny issuance of licenses.

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

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

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

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

26 (6) To promulgate rules and regulations necessary for
27 the administration and enforcement of this act. Except as
28 provided in section 302, regulations shall be adopted under
29 the act of July 31, 1968 (P.L.769, No.240), referred to as
30 the Commonwealth Documents Law, and the act of June 25, 1982

1 (P.L.633, No.181), known as the Regulatory Review Act.

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

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

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

14 (10) To require licensed operators, except for a
15 licensed operator operating season-long fantasy contests
16 which generate less than \$250,000 in season-long fantasy
17 contest adjusted revenue, unless the board determines
18 otherwise, to:

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

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

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

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

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

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

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

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

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

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

30 (1) To require background investigations for employees,

1 other than key employees and principals, of an applicant for
2 a fantasy contest license or a licensed operator.

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

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

8 Section 302. Temporary regulations.

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

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

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

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

26 Section 303. Fantasy contest license appeals.

27 An applicant or a licensee may appeal any final order,
28 determination or decision of the board involving the approval,
29 issuance, denial, revocation or conditioning of a fantasy
30 contest license in accordance with 2 Pa.C.S. Chs. 5 Subch. A

1 (relating to practice and procedure of Commonwealth agencies)
2 and 7 Subch. A (relating to judicial review of Commonwealth
3 agency action).

4 Section 304. Board minutes and records.

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

11 (b) Applicant information.--

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

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

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

23 (d) Confidentiality of information.--

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

29 (i) All information relating to character, honesty
30 and integrity, including family, habits, reputation,

1 history of criminal activity, business activities,
2 financial affairs and business, professional and personal
3 associations.

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

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

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

23 (v) Records of an applicant for a fantasy contest
24 license or a licensed operator not required to be filed
25 with the Securities and Exchange Commission by issuers
26 that either have securities registered under section 12
27 of the Securities Exchange Act of 1934 (48 Stat. 881, 15
28 U.S.C. § 781) or are required to file reports under
29 section 15(d) of the Securities Exchange Act of 1934 (48
30 Stat. 881, 15 U.S.C. § 78o)

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

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

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

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

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

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

1 provided for in this subsection as a condition for the
2 approval of an application, renewal of a fantasy contest
3 license or any other action of the board.

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

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

13 Section 305. Reports of board.

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

18 (1) Total fantasy contest adjusted revenues.

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

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

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

29 CHAPTER 5

30 LICENSURE

1 Section 501. General prohibition.

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

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

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

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

14 Section 502. Application.

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

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

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

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

29 (4) The names and addresses of each of the applicant's
30 principals.

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

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

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

9 (b) Nonrefundable application fee.--Each application
10 submitted under this act shall be accompanied by a nonrefundable
11 application fee, which shall be established by the board, and
12 which may not exceed the amount necessary to reimburse the board
13 for all costs incurred by the board for fulfilling the
14 requirements of this section and section 503 and, if the
15 applicant is not a licensed gaming entity, may not exceed an
16 amount equal to 5% of the applicant's fantasy contest adjusted
17 revenue for the previous calender year.

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

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

28 Section 503. Issuance and denial of license.

29 (a) Duty to review applications.--The board shall review all
30 applications for a license and shall issue a license to any

1 applicant that:

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

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

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

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

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

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

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

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

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

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

30 (c) Time period for review.--The board shall conclude its

1 review of an application for a fantasy contest license within
2 120 days of receipt of the completed application. If the license
3 is not issued, the board shall provide the applicant with the
4 justification for not issuing such license with specificity.

5 (d) License fee.--

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

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

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

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

24 Section 504. License renewal.

25 (a) Renewal.--

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

28 (2) Nothing in this paragraph shall be construed to
29 relieve a licensed operator of the affirmative duty to notify
30 the board of any changes relating to the status of its

1 fantasy contest license or to any other information contained
2 in the application materials on file with the board.

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

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

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

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

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

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

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

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

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

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

9 (c) Renewal fee.--

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

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

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

21 Section 505. Conditions of licensure.

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

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

29 (2) Verify the age, location and identity of any
30 participant prior to making a deposit into a fantasy contest

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

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

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

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

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

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

27 (8) Conspicuously post compulsive and problem play
28 notices at fantasy contest registration points and provide a
29 single toll-free telephone number to participants who have
30 expressed to the licensed operator issues with compulsive and

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

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

9 (10) Prevent the licensed operator's principals,
10 employees and relatives living in the same household as a
11 principal or an employee from competing in a fantasy contest
12 offered by any licensed operator to the general public and in
13 which fantasy contest the licensed operator offers a prize or
14 award.

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

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

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

1 party to hold prizes and awards in an escrow account until
2 after the season is concluded, when prizes and awards shall
3 be distributed.

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

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

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

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

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

17 Section 506. Prohibitions.

18 (a) Actions.--No licensed operator may:

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

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

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

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

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

30 (6) issue credit to a participant to establish or fund a

1 fantasy contest account;

2 (7) knowingly directly market to a self-excluded
3 individual during the time period in which the individual has
4 self-excluded from the licensed operators' fantasy contests;

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

9 (8.1) knowingly allow a self-excluded individual to keep
10 a prize or award;

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

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

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

22 (12) offer a fantasy contest where:

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

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

28 (iii) the winning outcome is based on the score,
29 point spread or performance of a single actual team or
30 combination of teams or solely on a single performance of

1 an individual athlete or player in a single actual event;
2 or

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

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

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

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

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

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

21 Section 507. Change in ownership or control of licensed
22 operators.

23 (a) Notification and approval.--

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

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

30 (ii) The sale other than in the ordinary course of

1 business of a licensed operator's assets.

2 (iii) Any other transaction or occurrence deemed by
3 the board to be relevant to fantasy contest license
4 qualifications.

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

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

24 (1) A purchaser of the assets, other than in the
25 ordinary course of business, of a licensed operator shall
26 independently qualify for a fantasy contest license in
27 accordance with this act and shall pay the application fee
28 and license fee as required by sections 502 and 503, except
29 that if the purchaser of assets is another licensed operator,
30 the purchaser of assets shall not be required to requalify

1 for a fantasy contest license or pay another application fee
2 and license fee.

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

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

24 (d) License revocation.--Failure to comply with this section
25 may cause the fantasy contest license issued under this act to
26 be revoked or suspended by the board unless the purchase of the
27 assets or the change in control that meets the criteria of this
28 section has been independently qualified in advance by the board
29 and any required application or license fee has been paid.
30 Section 508. Penalties.

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

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

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

10 (b) Administrative penalties.--

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

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

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

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

28 (c) Civil penalties.--

29 (1) In addition to the provisions of this section, a
30 person who knowingly violates a provision of this act shall

1 be liable for a civil penalty of not more than \$1,000 for
2 each such violation.

3 (2) The civil penalty shall be recovered in a civil
4 action brought by the board and shall be paid into the
5 General Fund.

6 CHAPTER 7

7 FISCAL PROVISIONS

8 Section 701. Fantasy contest tax.

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

14 (b) Deposits and distributions.--

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

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

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

24 (c) Penalty.--

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

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

3 Section 702. Licensed operator deposits.

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

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

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

15 (b) Deposits.--

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

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

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

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

30 (c) Itemized budget reporting.--

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

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

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

16 (e) Penalty.--

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

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

25 Section 703. Responsibility and authority of department.

26 (a) General rule.--The department may administer and collect
27 taxes imposed under section 701 and interest imposed under
28 section 806 of the act of April 9, 1929 (P.L.343, No.176), known
29 as The Fiscal Code, and promulgate and enforce rules and
30 regulations to carry out its prescribed duties in accordance

1 with sections 701 and 702, including the collection of taxes,
2 penalties, assessments and interest.

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

7 CHAPTER 9

8 MISCELLANEOUS PROVISIONS

9 Section 901. Applicability of other statutes.

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

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

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

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

25 Section 902. Licensed gaming entities.

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

28 (b) Applicability.--

29 (1) Nothing in this act shall be construed to limit the
30 board's general and sole regulatory authority over the

1 conduct of gaming or related activities under 4 Pa.C.S.
2 (relating to amusements), including, but not limited to, the
3 certification, registration and regulation of gaming service
4 providers and individuals and entities associated with them.

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

8 (c) Fantasy contest terminals.--

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

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

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

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

25 (f) Gaming service providers.--A licensed operator who is
26 not a licensed gaming entity may, at the discretion of the
27 board, be certificated or registered as a gaming service
28 provider under 4 Pa.C.S. § 1317.2 (relating to gaming service
29 provider) in order to operate fantasy contests subject to the
30 restrictions of subsection (d) on behalf of a licensed gaming

1 entity.

2 Section 903. Funding.

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

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

8 (2) The sum of \$500,000 is appropriated to the
9 department for the fiscal period July 1, 2016, to June 30,
10 2017, for the purpose of implementing and administering the
11 provisions of this act.

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

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

24 Section 904. Effective date.

25 This act shall take effect as follows:

26 (1) Section 903 shall take effect immediately.

27 (2) This section shall take effect immediately.

28 (3) The remainder of this act shall take effect in 180
29 days.