

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
 2 Representative Gaetz offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 546.11, Florida Statutes, is created to
 7 read:

8 546.11 SHORT TITLE.— Sections 546.11-546.19 may be cited
 9 as the "Fantasy Contest Amusement Act."

10 Section 2. Section 546.12, Florida Statutes, is created to
 11 read:

12 546.12 LEGISLATIVE INTENT.— It is the intent of the
 13 Legislature to ensure public confidence in the integrity of
 14 fantasy contests and fantasy contest operators. This act is
 15 designed to regulate the operators, individuals, and consumer
 16 protections related to fantasy contests. Furthermore, the
 17 Legislature finds that fantasy contests conducted as defined

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18 herein involve the skill of contest participants and do not
19 constitute gambling, gaming, or games of chance.

20 Section 3. Section 546.13, Florida Statutes, is created to
21 read:

22 546.13 DEFINITIONS.— As used in ss. 546.11-546.19, the
23 term:

24 (1) "Confidential information" means information related
25 to the playing of fantasy contests by contest participants which
26 is obtained solely as a result of a person's employment with or
27 work as an agent for a contest operator.

28 (2) "Entry fee" means cash or cash equivalent that is
29 required to be paid by a contest participant to a contest
30 operator to participate in a fantasy contest.

31 (3) "Fantasy contest" means any fantasy or simulation
32 sports game or contest offered by a contest operator or a
33 noncommercial contest operator in which a contest participant
34 manages a fantasy or simulated sports team made up of athletes
35 of an amateur or professional sports organization and that meets
36 all of the following conditions:

37 (a) All prizes and awards offered to winning participants
38 are established and made known to the contest participants in
39 advance of the game or contest and their value is not determined
40 by the number of contest participants or the amount of any fees
41 paid by those contest participants.

42 (b) All winning outcomes reflect the relative knowledge
43 and skill of the contest participants and are determined

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44 predominantly by accumulated statistical results of the
45 performance of the athletes participating in multiple real-world
46 sporting or other events. No winning outcome may be based:

47 1. On the score, point-spread, or any performance or
48 performances of any single real-world team or any combination of
49 such teams;

50 2. Solely on any single performance of an individual
51 athlete in any single real-world sporting or other event; or

52 3. On any live pari-mutuel event as defined by ch. 550,
53 F.S..

54 (4) "Contest operator" means a person or entity that
55 offers fantasy contests for a cash prize to members of the
56 public.

57 (5) "Contest participant" means a person who pays a fee
58 for the ability to participate in a fantasy contest offered by a
59 contest operator.

60 (6) "Division" means the Division of Regulation within the
61 Department of Business and Professional Regulation.

62 (7) "Net revenues" means an amount equal to the total
63 entry fees collected from contest participants in this state by
64 a contest operator during a 12-month period, less the amount of
65 cash or cash equivalents paid to contest participants in this
66 state during the same period.

67 (8) "Noncommercial contest operator" means a person who
68 organizes and conducts a fantasy contest whereby contest
69 participants are charged entry fees for the right to participate

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70 therein and the entry fees are collected, maintained and
71 distributed by the same person, provided all entry fees are
72 returned to the players in the form of prizes or other
73 equivalent.

74 Section 4. Section 546.14, Florida Statutes, is created to
75 read:

76 546.14 LICENSING.—

77 (1) A contest operator offering fantasy contests to be
78 played by persons in this state must complete a license
79 application with the division to conduct fantasy contests within
80 this state.

81 (2) The initial application fee shall be the lesser of:

82 (a) \$500,000; or

83 (b) 10 percent of the contest operator's net revenues
84 during the 12 months after the license has been granted.

85 (3) The annual license renewal fee shall be the lesser of:

86 (a) \$100,000; or

87 (b) 10 percent of the contest operator's net revenues
88 during the 12 months after the license has been renewed.

89 (4) At the time of initial application for licensure, the
90 contest operator shall provide the division with an estimate of
91 its application fee calculated pursuant to subsection (2), along
92 with written evidence supporting the estimate, and shall remit
93 such amount to the division. No license may be granted unless
94 such fee has been remitted.

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95 (5) At the time of application for renewal of licensure,
96 the contest operator shall provide the division with evidence of
97 the actual net revenues during the previous period of licensure,
98 an estimate of its license renewal fee calculated pursuant to
99 subsection (3), and written evidence supporting the estimate.
100 The contest operator shall remit to the department an amount
101 equal to the difference between its actual required application
102 or renewal fee for the previous period of licensure and the
103 estimated fee it paid at the time of the previous application,
104 plus its estimated license renewal fee for the upcoming
105 licensure period. No license may be renewed unless such amount
106 has been remitted.

107 (6) Applications for a contest operator's license are
108 exempt from the 90-day licensing requirement of s. 120.60.
109 Within 120 days after receipt of a complete application, the
110 division shall grant or deny the license. A completed
111 application that is not acted upon within 120 days after receipt
112 is deemed approved, and the division shall grant the license.

113 (7) The division shall require that each applicant submit
114 an application setting forth:

115 (a) The full name of the applicant.

116 (b) If a corporation, the name of the state in which
117 incorporated and the names and addresses of the officers,
118 directors, and shareholders holding 5 percent or more equity or,
119 if a business entity other than a corporation, the names and

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120 addresses of the principals, partners, or shareholders holding 5
121 percent or more equity.

122 (c) The names and addresses of the ultimate equitable
123 owners for a corporation or other business entity, if different
124 from those provided under paragraph (b), unless the securities
125 of the corporation or entity are registered pursuant to s. 12 of
126 the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk; and
127 if such corporation or entity files with the United States
128 Securities and Exchange Commission the reports required by s. 13
129 of that act or if the securities of the corporation or entity
130 are regularly traded on an established securities market in the
131 United States.

132 (d) The estimated number of fantasy contests to be
133 conducted annually.

134 (e) A statement of the assets and liabilities of the
135 applicant.

136 (f) The names and addresses of the officers and directors
137 of any debtor of the applicant, and of those stockholders who
138 hold more than 10 percent of the stock of the debtor, if the
139 division requires.

140 (g) For each individual listed in the application as an
141 officer or director, a complete set of fingerprints that has
142 been taken by an authorized law enforcement officer. These sets
143 of fingerprints must be submitted to the Federal Bureau of
144 Investigation for processing. Foreign nationals shall submit
145 such documents as necessary to allow the division to conduct

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146 criminal history records checks in the individual's home
147 country. The applicant must pay the cost of processing. The
148 division may charge a \$2 handling fee for each set of
149 fingerprint records.

150 (8) A person or entity is not eligible for licensure as a
151 contest operator or the renewal of a license if the person or an
152 officer or director of the entity has been convicted of a felony
153 in this state, a felony in any other state which would be a
154 felony if committed in this state under the laws of this state,
155 or a felony under the laws of the United States or has been
156 determined by the division after investigation not to be of good
157 moral character. For the purposes of this subsection, the term
158 "convicted" means having been found guilty, with or without
159 adjudication of guilt, as a result of a jury verdict, nonjury
160 trial, or entry of a plea of guilty or nolo contendere.

161 (9) The contest operator shall provide evidence of a
162 surety bond in the amount of \$1 million, payable to the state,
163 furnished by a corporate surety authorized to do business in the
164 state in such a form as established by division rule. Such bond
165 shall be kept in full force and effect by the contest operator
166 during the term of the license and any renewal thereof.

167 (10) The division may suspend, revoke or deny the license
168 of a contest operator for violation of the rules promulgated by
169 the division or for violation of any provision of this section.

170 Section 5. Section 546.15, Florida Statutes, is created to
171 read:

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172 546.15 CONSUMER PROTECTION.—

173 (1) A contest operator must implement procedures for
174 fantasy contests with an entry fee that are intended to:

175 (a) Prevent employees of the fantasy contest operator, and
176 relatives living in the same household as such employees, from
177 competing in any such public fantasy contest in which a cash
178 prize is offered.

179 (b) Prohibit the contest operator from being a contest
180 participant in such a fantasy contest that he or she offers.

181 (c) Prevent the employees or agents of the contest
182 operator from sharing confidential information that could affect
183 such fantasy contest play with third parties until the
184 information is made publicly available.

185 (d) Verify that all contest participants are 18 years of
186 age or older.

187 (e) Restrict an individual who is a player, game official,
188 coach, owner, or other participant in a real-world game or
189 competition from participating in such a fantasy contest that is
190 determined in whole or in part on the performance of that
191 individual, the individual's real-world team, or the accumulated
192 statistical results of the sport or competition in which he or
193 she is a player, game official, or other participant.

194 (f) Allow individuals to restrict or prevent their own
195 access to such a fantasy contest and take reasonable steps to
196 prevent those individuals from entering a fantasy contest.

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197 (g) Disclose the number of entries a single contest
198 participant may submit to each such fantasy contest and take
199 reasonable steps to prevent contest participants from submitting
200 more than the allowable number.

201 (h) Segregate funds of contest participants in fantasy
202 contests from operational funds and maintain a reserve in the
203 form of cash, cash equivalents, an irrevocable letter of credit,
204 a bond, or a combination thereof in the total amount of deposits
205 in contest participant accounts for the benefit and protection
206 of authorized contest participants' funds held in fantasy
207 contest accounts.

208 (2) A contest operator offering fantasy contests with an
209 entry fee in this state must annually contract with a third
210 party to perform an independent audit, consistent with the
211 standards established by the Public Company Accounting Oversight
212 Board, to ensure compliance with this chapter. The contest
213 operator must submit the results of the independent audit to the
214 division.

215 (3) The contest operator shall offer training to employees
216 on responsible play and shall work with a compulsive or
217 addictive behavior prevention program to recognize problem
218 situations, to implement responsible play and practices, and to
219 implement underage player protections.

220 (a) The division shall, subject to competitive bidding,
221 contract for provision of services related to the prevention of
222 compulsive and addictive play. The contract shall provide for an

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223 advertising program to encourage responsible practices and to
224 publicize a telephone help line. The terms of any contract for
225 the provision of such services shall include accountability
226 standards that must be met by any private provider. The failure
227 of any private provider to meet any material terms of the
228 contract, including the accountability standards, shall
229 constitute a breach of contract or grounds for nonrenewal.

230 (b) The compulsive or addictive play prevention program
231 shall be funded by the allocation of 7.5% of the initial
232 registration fee and any subsequent renewal registration fee
233 paid by a contest operator to the division.

234 (4) The division may promulgate rules regarding the
235 procedures required to comply with this section.

236 Section 6. Section 546.16, Florida Statutes, is created to
237 read:

238 546.16 AUTHORITY OF THE DIVISION.—

239 (1) The duties of the division shall include, but are not
240 limited to, administering and enforcing sections 546.11-546.19,
241 the rules adopted under those parts, and any other duties
242 authorized by the Secretary. The division may work with such
243 Department personnel as needed to assist in the carrying out of
244 its duties.

245 (2) The division shall administer this section and the
246 rules adopted pursuant thereto, and is hereby authorized to:

247 (a) Adopt rules, including, but not limited to:

248 1. The operation of fantasy contests;

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249 2. Recordkeeping and reporting requirements; and

250 3. The collection of all fees imposed by this section.

251 (b) Conduct investigations and monitor the operation of
252 fantasy contests and their play.

253 (c) Review the books, accounts, and records of any
254 current or former contest operator.

255 (d) Suspend or revoke any license, after hearing, for any
256 violation of Florida law or the administrative rules adopted
257 pursuant thereto.

258 (e) Take testimony, issue summons and subpoenas for any
259 witness, and issue subpoenas duces tecum in connection with any
260 matter within its jurisdiction.

261 (f) Monitor and ensure the proper collection and
262 safeguarding of contest entry fees and the payment of contest
263 prizes in accordance with the mandated consumer protection
264 procedures.

265 (g) The division is authorized to adopt rules for the
266 administration of this Act.

267 Section 7. Section 546.17, Florida Statutes, is created to
268 read:

269 546.17 RECORDS AND REPORTS.—

270 (1) Each contest operator shall keep and maintain
271 permanent daily records of its operation and shall maintain such
272 records for a period of not less than 3 years. These records
273 shall include all financial transactions and contain sufficient
274 detail to determine compliance with the requirements of this

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275 section. All records shall be available for audit and inspection
276 by the division or other law enforcement agencies during the
277 contest operator's regular business hours. The information
278 required in such records shall be determined by division rule.

279 (2) Each contest operator shall file with the division a
280 report containing the required records of such operation and any
281 additional information deemed necessary by the division. Such
282 report shall be filed quarterly by contest operators. The
283 required reports shall be submitted on forms prescribed by the
284 division, and the reports and required records shall be deemed
285 public records once filed.

286 Section 8. Section 546.18, Florida Statutes, is created to
287 read:

288 546.18 PENALTIES.— A contest operator, or an employee or
289 agent thereof, who violates this chapter is subject to a civil
290 penalty not to exceed \$5,000 for each violation, not to exceed
291 \$100,000 in the aggregate, which shall accrue to the state and
292 may be brought by the division or the Department of Legal
293 Affairs in the circuit courts in the name and on behalf of the
294 state; the same to be applied when collected as all other penal
295 forfeitures are disposed of.

296 Section 9. Section 546.19, Florida Statutes, is created to
297 read:

298 546.19 EXEMPTION.— Fantasy contests conducted in
299 accordance with this Act by a contest operator licensed pursuant

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300 to this Act or a noncommercial contest operator are not subject
301 to ss. 849.01, 849.08, 849.09, 849.11, 849.14, or 849.25.

302 Section 10. This act shall become effective upon becoming
303 law, provided however that the penalty provisions established by
304 section 8 shall not apply to a contest operator who applied for
305 a license within 90 days of the effective date of this act and
306 receives a license within 240 days of the effective date of this
307 act.

308 -----
309
310 **T I T L E A M E N D M E N T**

311 Remove everything before the enacting clause and insert:
312 An act relating to fantasy contests; creating s. 546.11, F.S.;
313 providing a short title; creating s. 546.12, F.S.; providing
314 legislative intent; creating s. 546.13, F.S.; providing
315 definitions; creating s. 546.14, F.S.; requiring contest
316 operators to obtain a license from the Division of Regulation
317 within the Department of Business and Professional Regulation;
318 requiring payment of an initial application fee and an annual
319 license renewal fee; providing a limit on the amount of the
320 application fee and annual license renewal fee; requiring
321 contest operators to provide as estimate of the size of their
322 required fees and evidence to support the estimates; requiring
323 contest operators to pay the difference between the previous
324 year's estimated fee and the actual fee as required by law if
325 the estimated fee was insufficient; requiring the division to

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326 grant or deny a license within 120 days or receipt of an
327 application; providing requirements for the contents of license
328 applications; requiring applicants to submit fingerprints for
329 criminal background checks; prohibiting convicted felons from
330 being granted a license; providing a definition of "convicted";
331 requiring payment of a surety bond to the state; authorizing the
332 division to suspend, revoke, or deny a license after violation
333 of statute or rule by a licensee or applicant; creating s.
334 546.15, F.S.; requiring contest operators to prevent employees
335 and certain family members from participating in contests;
336 prohibiting contest operators from participating in certain
337 fantasy contests; requiring contest operators to prohibit
338 employees or agents of a contest operator from distributing
339 confidential information; requiring contest operators to verify
340 that participants are 18 years of age or older; requiring
341 contest operators to prohibit players, officials, coaches, or
342 other participants in live games or competitions from
343 participating in certain fantasy contests; requiring contest
344 operators to allow participants to restrict their own access to
345 fantasy contests; requiring contest operators to disclose the
346 number of contests in which an individual may participate and to
347 restrict individuals from participating in more than that number
348 of fantasy contests; requiring contest operators to segregate
349 operational funds from participant funds and to maintain a
350 reserve; requiring certain contest operators to contract with a
351 third party to audit the contest operator and to submit the

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Bill No. CS/HB 707 (2016)

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352 results to the division; requiring contest operators to provide
353 training to employees on responsible play; requiring contest
354 operators to work with a compulsive or addictive behavior
355 prevention program; requiring the division to contract for
356 services related to prevention of compulsive play; providing
357 requirements for such contract; providing that a portion of
358 revenues from application fees and annual license renewal fees
359 shall be used to fund the compulsive play prevention program;
360 providing rulemaking authority; creating s. 546.16, F.S.;
361 requiring the division to enforce the provisions of this act;
362 providing rulemaking authority; authorizing the division to
363 conduct investigations, review books and records, suspend or
364 revoke a contest operator's license after hearing, take
365 testimony, issue summons and subpoenas, and ensure proper
366 collection and safeguarding of participant funds and contest
367 prizes; creating s. 546.17, F.S.; requiring contest operators to
368 maintain books and records and to make them available for
369 inspection by the division; requiring contest operators to file
370 a quarterly report with the division containing information as
371 required by the division; creating s. 546.18, F.S.; providing
372 that a contest operator or employee thereof who violates the
373 provisions of this act is subject to a penalty of \$5,000 per
374 violation; providing a cap on penalties of \$100,000; providing
375 that civil action to impose such penalties may be brought by the
376 division or the Department of Legal Affairs; creating s. 546.19,
377 F.S.; providing that contest operators and noncommercial contest

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Published On: 1/27/2016 9:13:53 AM

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378 operators are exempt from regulation under certain gambling
379 statutes; providing an effective date.