

1 A bill to be entitled
2 An act relating to fantasy contests; creating s.
3 546.11, F.S.; providing a short title; creating s.
4 546.12, F.S.; providing legislative findings and
5 intent; creating s. 546.13, F.S.; providing
6 definitions; creating s. 546.14, F.S.; requiring
7 contest operators to obtain licenses from the Division
8 of Regulation of the Department of Business and
9 Professional Regulation to conduct fantasy contests in
10 the state; providing an application fee and annual
11 license renewal fees; providing application
12 requirements; requiring the division to approve or
13 deny a license within a specified timeframe; providing
14 that a complete application is deemed approved under
15 certain circumstances; providing that persons or
16 entities are not eligible for licensure under certain
17 circumstances; requiring a contest operator to provide
18 evidence of a surety bond; requiring the surety bond
19 to be kept during the term of the license and any
20 renewal term thereafter; creating s. 546.15, F.S.;
21 requiring contest operators to implement certain
22 procedures; requiring contest operators to contract
23 for independent audits and to annually submit the
24 results to the division; requiring contest operators
25 to coordinate with a compulsive or addictive behavior
26 prevention program and provide training to employees;

27 requiring the division to contract for services
28 related to the prevention of compulsive or addictive
29 behavior; creating s. 546.16, F.S.; authorizing the
30 division to adopt rules and perform certain duties;
31 authorizing the division to suspend, revoke, or deny a
32 license for certain violations; creating s. 546.17,
33 F.S.; requiring contest operators to keep and maintain
34 daily records and to make such records available for
35 inspection; requiring contest operators to file a
36 quarterly report; creating s. 546.18, F.S.; providing
37 penalties; authorizing the division or the Department
38 of Legal Affairs to bring certain civil actions;
39 creating s. 546.19, F.S.; providing that specified
40 provisions of chapter 849, F.S., relating to gambling
41 offenses, do not apply to fantasy contest operators
42 complying with certain requirements or to
43 "noncommercial contest operators" as defined by the
44 act; providing applicability; providing an effective
45 date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Section 546.11, Florida Statutes, is created to
50 read:

51 546.11 Short title.—Sections 546.11-546.19 may be cited as
52 the "Fantasy Contest Amusement Act."

53 Section 2. Section 546.12, Florida Statutes, is created to
54 read:

55 546.12 Legislative findings and intent.—It is the intent
56 of the Legislature to ensure public confidence in the integrity
57 of fantasy contests and fantasy contest operators. This act is
58 designed to regulate fantasy contest operators and persons who
59 participate in fantasy contests and to adopt consumer
60 protections related to such contests. The Legislature finds that
61 fantasy contests, as that term is defined in s. 546.13, involve
62 the skill of contest participants and do not constitute
63 gambling, gaming, or games of chance.

64 Section 3. Section 546.13, Florida Statutes, is created to
65 read:

66 546.13 Definitions.—As used in ss. 546.11-546.19, the
67 term:

68 (1) "Confidential information" means information related
69 to participation in fantasy contests by contest participants
70 which is obtained solely as a result of a person's employment
71 with or work as an agent of a contest operator.

72 (2) "Contest operator" means a person or entity that
73 offers fantasy contests for a cash prize to members of the
74 public.

75 (3) "Contest participant" means a person who pays an entry
76 fee for the right to participate in a fantasy contest offered by
77 a contest operator.

78 (4) "Division" means the Division of Regulation within the

79 Department of Business and Professional Regulation.

80 (5) "Entry fee" means the cash or cash equivalent required
81 to be paid by a contest participant to a contest operator for
82 the right to participate in a fantasy contest.

83 (6) "Fantasy contest" means a fantasy or simulation game
84 or contest offered by a contest operator or noncommercial
85 contest operator in which a contest participant manages a
86 fantasy or simulated sports team consisting of athletes or
87 players who are members of an amateur or professional sports
88 organization and which meets the following conditions:

89 (a) All prizes offered to winning contest participants are
90 established and made known to the contest participants in
91 advance of the fantasy contest, and the value of such prizes is
92 not determined by the number of contest participants or the
93 amount of entry fees paid by such participants.

94 (b) All winning outcomes reflect the relative knowledge
95 and skill of contest participants and are determined
96 predominantly by accumulated statistical results of the
97 performance of the athletes participating in multiple real-world
98 sporting or other events. A winning outcome may not be based:

99 1. On the score, point spread, or performance of a single
100 real-world team or combination of such teams;

101 2. Solely on the single performance of an individual
102 athlete in a single real-world sporting or other event; or

103 3. On a live pari-mutuel event as authorized under chapter
104 550.

105 (7) "Net revenues" means an amount equal to the total
 106 entry fees collected from contest participants in this state by
 107 a contest operator during a 12-month period, less the total
 108 amount of cash or cash equivalent paid to contest participants
 109 in this state during the same period.

110 (8) "Noncommercial contest operator" means a person who
 111 organizes and conducts a fantasy contest in which contest
 112 participants are charged entry fees for the right to
 113 participate; the entry fees are collected, maintained, and
 114 distributed by the same person; and all entry fees are returned
 115 to the contest participants in the form of prizes or other
 116 equivalent.

117 Section 4. Section 546.14, Florida Statutes, is created to
 118 read:

119 546.14 Licensing.—

120 (1) A contest operator offering fantasy contests to
 121 persons in this state must complete and submit an application to
 122 the division for a license to conduct fantasy contests.

123 (2) (a) At the time of initial application for license, the
 124 contest operator shall provide the division with an estimate of
 125 the application fee calculated pursuant to paragraph (b), in
 126 addition to written evidence supporting the estimate, and shall
 127 pay the estimated fee to the division. A license may not be
 128 issued unless the application fee is paid.

129 (b) The application fee shall be the lesser of:

130 1. Five hundred thousand dollars; or

131 2. Ten percent of the contest operator's estimated net
132 revenues for 12 months after the date the license is issued.

133 (3) (a) At the time of application for the annual renewal
134 of a license, the contest operator shall provide the division
135 with evidence of the actual net revenues collected during the
136 previous licensure period, an estimate of the license renewal
137 fee calculated pursuant to paragraph (b), and written evidence
138 supporting the estimate. The contest operator shall pay to the
139 division an amount equal to the difference between the actual
140 application fee or renewal fee for the previous licensure period
141 and the estimated application fee paid at the time of the
142 previous application, plus the estimated license renewal fee for
143 the upcoming licensure period. A license may not be renewed
144 unless the application fee is paid.

145 (b) The annual license renewal fee shall be the lesser of:

146 1. One hundred thousand dollars; or

147 2. Ten percent of the contest operator's estimated net
148 revenues for 12 months after the date the license is renewed.

149 (4) An application for a contest operator's license is
150 exempt from the 90-day licensing requirement of s. 120.60.
151 Within 120 days after receipt of a complete application, the
152 division shall approve or deny the license. A complete
153 application that is not acted upon within 120 days after receipt
154 is deemed approved, and the division shall issue the license.

155 (5) An application for a contest operator's license must
156 include:

- 157 (a) The full name of the applicant.
- 158 (b) If the applicant is a corporation, the name of the
159 state in which it is incorporated and the names and addresses of
160 the officers, directors, and shareholders of the corporation who
161 hold 5 percent or more equity in the corporation. If the
162 applicant is a business entity other than a corporation, the
163 names and addresses of the principals, partners, or shareholders
164 who hold 5 percent or more equity in the entity.
- 165 (c) If the applicant is a corporation or other business
166 entity, the names and addresses of the ultimate equitable owners
167 of the corporation or entity, if different from those provided
168 under paragraph (b), unless the securities of the corporation or
169 entity are registered pursuant to s. 12 of the Securities
170 Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and:
- 171 1. The corporation or entity files the reports required by
172 s. 13 of such federal act with the United States Securities and
173 Exchange Commission; or
- 174 2. The securities of the corporation or entity are
175 regularly traded on an established securities market in the
176 United States.
- 177 (d) The estimated number of fantasy contests that the
178 applicant will annually conduct.
- 179 (e) A statement of the applicant's assets and liabilities.
- 180 (f) If applicable and required by the division, the names
181 and addresses of the officers and directors of any debtor of the
182 applicant and the names and addresses of any stockholder who

183 holds more than 10 percent of the stock of the debtor.

184 (g) For each person listed in the application as an
185 officer or director, a complete set of fingerprints taken by an
186 authorized law enforcement officer. Such fingerprints must be
187 submitted to the Federal Bureau of Investigation for processing.
188 Foreign nationals shall submit such documents as necessary to
189 allow the division to conduct criminal history records checks in
190 the person's home country. The applicant must pay all costs of
191 fingerprint processing, and the division may charge a \$2
192 handling fee for each set of fingerprints.

193 (6) A person, corporation, or entity is not eligible for a
194 contest operator's license or the renewal of such license if the
195 person or an officer or a director of the corporation or entity
196 has been convicted of a felony in this state, a felony in
197 another state which would be a felony if committed in this
198 state, or a felony under the laws of the United States, or has
199 been determined by the division after investigation not to be of
200 good moral character. For purposes of this subsection, the term
201 "convicted" means having been found guilty, regardless of
202 adjudication of guilt, as a result of a jury verdict, nonjury
203 trial, or entry of a plea of guilty or nolo contendere.

204 (7) An applicant for a contest operator's license shall
205 provide evidence of a surety bond in the amount of \$1 million,
206 payable to the state, furnished by a corporate surety authorized
207 to do business in the state in such a form as established by
208 division rule. Such bond shall be kept in full force and effect

209 by the contest operator during the term of the license and any
210 renewal thereof.

211 Section 5. Section 546.15, Florida Statutes, is created to
212 read:

213 546.15 Consumer protection.—

214 (1) For fantasy contests requiring an entry fee, a contest
215 operator must implement procedures intended to:

216 (a) Prevent an employee of the contest operator and
217 relatives of such employee residing in the same household as the
218 employee from participating in a fantasy contest in which a cash
219 prize is offered.

220 (b) Prohibit the contest operator from participating as a
221 contest participant in a fantasy contest offered by the contest
222 operator.

223 (c) Prevent an employee or agent of the contest operator
224 from sharing confidential information with third parties that
225 could affect fantasy contests until the information is made
226 publicly available.

227 (d) Verify that each contest participant is 18 years of
228 age or older.

229 (e) Restrict a person who is a player, game official, or
230 other participant in a real-world sporting or other event from
231 participating in a fantasy contest that is determined in whole
232 or in part on the person's performance, the performance of the
233 person's real-world team, or the accumulated statistical results
234 of the real-world sporting or other event in which the person is

235 a player, game official, or other participant.

236 (f) Allow a person to restrict or prevent his or her own
237 access to a fantasy contest and take reasonable steps to prevent
238 himself or herself from entering a fantasy contest.

239 (g) Disclose the number of entries that a single contest
240 participant may submit to each fantasy contest and take
241 reasonable steps to prevent contest participants from submitting
242 more than the allowable number of entries.

243 (h) Segregate contest participants' funds from operational
244 funds and maintain a reserve in the form of cash or cash
245 equivalent, an irrevocable letter of credit, a bond, or a
246 combination thereof, in the total amount of the deposits in
247 contest participants' accounts, for the benefit and protection
248 of authorized contest participants' funds held in the contest
249 participants' accounts.

250 (2) For fantasy contests requiring an entry fee, a contest
251 operator must annually contract with a third party to perform an
252 independent audit, consistent with standards established by the
253 Public Company Accounting Oversight Board, to ensure the contest
254 operator's compliance with ss. 546.11-546.19. The contest
255 operator must annually submit the results of the independent
256 audit to the division.

257 (3) (a) A contest operator must provide training to
258 employees on responsible play and practices and coordinate with
259 the compulsive or addictive behavior prevention program
260 implemented pursuant to this subsection to recognize problem

261 situations, implement responsible play and practices, and
262 implement protections for underage participants.

263 (b) The division shall, subject to competitive bidding,
264 contract for services related to the prevention of compulsive or
265 addictive behavior related to fantasy contests. The contract
266 shall provide for an advertising program to encourage
267 responsible play and practices and to publicize a telephone help
268 line and shall include accountability standards that must be met
269 by any private provider. Failure of a private provider to meet
270 any material terms of the contract, including the accountability
271 standards, constitutes a breach of contract or grounds for
272 nonrenewal.

273 (c) The compulsive or addictive behavior prevention
274 program shall be funded by the allocation of 7.5 percent of
275 initial application fees and 7.5 percent of any subsequent
276 annual license renewal fees paid by contest operators to the
277 division.

278 Section 6. Section 546.16, Florida Statutes, is created to
279 read:

280 546.16 Authority of the division.—The division is
281 responsible for the administration and enforcement of ss.
282 546.11-546.19. The division is authorized to:

283 (1) Adopt rules for the administration and enforcement of
284 ss. 546.11-546.19. Such rules shall include, but need not be
285 limited to, procedures for the operation of fantasy contests,
286 recordkeeping and reporting requirements for contest operators,

287 and procedures for the collection of entry fees.

288 (2) Perform any other duties authorized by the Secretary
 289 of Business and Professional Regulation.

290 (3) Conduct investigations and monitor the operation of
 291 fantasy contests.

292 (4) Review the books, accounts, and records of any current
 293 or former contest operator.

294 (5) Suspend, revoke, or deny, after hearing, the license
 295 of a contest operator that violates ss. 546.11-546.19 or rules
 296 adopted thereunder by the division.

297 (6) Take testimony and issue summons, subpoenas, and
 298 subpoenas duces tecum in connection with any matter related to
 299 the administration or enforcement of ss. 546.11-546.19.

300 (7) Monitor and enforce the collection and safeguard of
 301 contest entry fees, the payment of contest prizes, and the
 302 consumer protection provisions of s. 546.15.

303 (8) Coordinate with other department personnel as needed
 304 to assist in the administration and enforcement of ss. 546.11-
 305 546.19.

306 Section 7. Section 546.17, Florida Statutes, is created to
 307 read:

308 546.17 Records and reports.-

309 (1) Each contest operator shall keep and maintain daily
 310 records of its operations as required by division rule, shall
 311 maintain such records for at least 3 years, and must make such
 312 records available for audit and inspection by the division or

313 other law enforcement agencies during the contest operator's
314 regular business hours. The records must include all financial
315 transactions with sufficient detail to determine compliance with
316 the requirements of ss. 546.11-546.19.

317 (2) Each contest operator shall file a quarterly report
318 with the division that includes such required records and any
319 additional information deemed necessary by the division. The
320 report shall be submitted in the format prescribed by the
321 division which, once filed, becomes a public record.

322 Section 8. Section 546.18, Florida Statutes, is created to
323 read:

324 546.18 Penalties.—A contest operator, or an employee or
325 agent thereof, that violates ss. 546.11-546.19 is subject to a
326 civil penalty not to exceed \$5,000 for each violation, and not
327 to exceed \$100,000 in the aggregate, which shall accrue to the
328 state and may be recovered in a civil action brought by the
329 division or the Department of Legal Affairs in circuit court in
330 the name and on behalf of the state; the same to be applied when
331 collected as all other penal forfeitures are disposed of.

332 Section 9. Section 546.19, Florida Statutes, is created to
333 read:

334 546.19 Exemption.—Fantasy contests conducted in accordance
335 with ss. 546.11-546.19 by a contest operator licensed in
336 accordance with ss. 546.11-546.19, or by a noncommercial contest
337 operator, are not subject to ss. 849.01, 849.08, 849.09, 849.11,
338 849.14, or 849.25.

339 Section 10. The penalties established by s. 546.18,
340 Florida Statutes, as created by this act, do not apply to a
341 contest operator that applies for a license within 90 days after
342 the effective date of this act and that is issued such license
343 within 240 days after the effective date of this act.

344 Section 11. This act shall take effect upon becoming a
345 law.