

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Gaetz offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 128 and 129, insert:

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

7 546.11 Short title.—Sections 546.11-546.19 may be cited as
8 the "Fantasy Contest Amusement Act."

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

11 546.12 Legislative findings and intent.—It is the intent
12 of the Legislature to ensure public confidence in the integrity
13 of fantasy contests and fantasy contest operators. This act is
14 designed to regulate fantasy contest operators and persons who

154547

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Amendment No.

15 participate in fantasy contests and to adopt consumer
16 protections related to such contests. The Legislature finds that
17 fantasy contests, as defined in s. 546.13, involve the skill of
18 contest participants and do not constitute gambling, gaming, or
19 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 participation in fantasy contests by contest participants
26 which is obtained solely as a result of a person's employment
27 with or work as an agent of a contest operator.

28 (2) "Contest operator" means a person or entity other than
29 a noncommercial contest operator that offers fantasy contests
30 that require an entry fee for a cash prize to members of the
31 public. Sections 546.11-546.19 apply solely to the specific
32 products, services, or offerings of a person or entity that
33 cause that person or entity to meet the definition of the term
34 "contest operator" and do not extend to any other product or
35 service offered by that person or entity.

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

39 (4) "Division" means the Division of Regulation within the
40 Department of Business and Professional Regulation.

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

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

44 (6) "Fantasy contest" means a fantasy or simulation game
45 or contest in which a contest participant manages a fantasy or
46 simulated sports team consisting of athletes or players who are
47 members of an amateur or professional sports organization and
48 which meets the following conditions:

49 (a) All prizes offered to winning contest participants are
50 established and made known to the contest participants in
51 advance of the fantasy contest, and the value of such prizes is
52 not determined by the number of contest participants or the
53 amount of entry fees paid by such participants.

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

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

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

63 (c) Fantasy contests may not be based on the results of
64 college or high school sports teams, athletes, or players.

65 (d) Membership of a fantasy or simulation sports team may
66 not be based on the current membership, or on a majority of the

154547

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Amendment No.

67 current membership, of an actual team that is a member of an
68 amateur or professional sports organization.

69 (7) "Net revenues" means an amount equal to the total
70 entry fees collected from contest participants in this state by
71 a contest operator during a 12-month period, less the total
72 amount of cash or cash equivalent paid to contest participants
73 in this state during the same period.

74 (8) "Noncommercial contest operator" means a person who
75 organizes and conducts a fantasy contest, or an entity who makes
76 available a fantasy contest software platform, whereby
77 participants may be charged fees for the right to participate;
78 the fees are collected, maintained, and distributed by the same
79 person; and all fees are returned to the participants in the
80 form of prizes or other equivalent.

81 Section 4. Section 546.14, Florida Statutes, is created to
82 read:

83 546.14 Licensing.—

84 (1) A contest operator offering fantasy contests with an
85 entry fee to persons in this state must complete and submit an
86 application to the division for a license to conduct such
87 fantasy contests.

88 (2) (a) At the time of initial application for license, the
89 contest operator shall provide the division with an estimate of
90 the application fee calculated pursuant to paragraph (b), in
91 addition to written evidence supporting the estimate, and shall

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

92 pay the estimated fee to the division. A license may not be
93 issued unless the application fee is paid.

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

95 1. Five hundred thousand dollars; or

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

98 (c) Application fee revenues shall be deposited into the
99 Professional Regulation Trust Fund for use by the division to
100 pay for regulatory costs incurred in enforcing the provisions of
101 ss. 546.11-546.19.

102 (3)(a) At the time of application for the annual renewal
103 of a license, the contest operator shall provide the division
104 with evidence of the actual net revenues collected during the
105 previous licensure period, an estimate of the license renewal
106 fee calculated pursuant to paragraph (b), and written evidence
107 supporting the estimate. The contest operator shall pay to the
108 division an amount equal to the difference between the actual
109 application fee or renewal fee for the previous licensure period
110 and the estimated application fee paid at the time of the
111 previous application, plus the estimated license renewal fee for
112 the upcoming licensure period. A license may not be renewed
113 unless the application fee is paid.

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

115 1. One hundred thousand dollars; or

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

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

118 (c) License renewal fee revenues shall be deposited into
119 the Professional Regulation Trust Fund for use by the division
120 to pay for regulatory costs incurred in enforcing the provisions
121 of ss. 546.11-546.19 and to fund the compulsive or addictive
122 behavior prevention program pursuant to s. 546.15(3).

123 (4) An application for a contest operator's license is
124 exempt from the 90-day licensing requirement of s. 120.60.
125 Within 120 days after receipt of a complete application, the
126 division shall approve or deny the license. A complete
127 application that is not acted upon within 120 days after receipt
128 is deemed approved, and the division shall issue the license.

129 (5) An application for a contest operator's license must
130 include:

131 (a) The full name of the applicant.

132 (b) If the applicant is a corporation, the name of the
133 state in which it is incorporated and the names and addresses of
134 the officers, directors, and shareholders of the corporation who
135 hold 5 percent or more equity in the corporation. If the
136 applicant is a business entity other than a corporation, the
137 names and addresses of the principals, partners, or shareholders
138 who hold 5 percent or more equity in the entity.

139 (c) If the applicant is a corporation or other business
140 entity, the names and addresses of the ultimate equitable owners
141 of the corporation or entity, if different from those provided
142 under paragraph (b), unless the securities of the corporation or

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

143 entity are registered pursuant to s. 12 of the Securities
144 Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and:

145 1. The corporation or entity files the reports required by
146 s. 13 of such federal act with the United States Securities and
147 Exchange Commission; or

148 2. The securities of the corporation or entity are
149 regularly traded on an established securities market in the
150 United States.

151 (d) The estimated number of fantasy contests that the
152 applicant will annually conduct.

153 (e) A statement of the applicant's assets and liabilities.

154 (f) If applicable and required by the division, the names
155 and addresses of the officers and directors of any debtor of the
156 applicant and the names and addresses of any stockholder who
157 holds more than 10 percent of the stock of the debtor.

158 (g) For each person listed in the application as an
159 officer or director, a complete set of fingerprints taken by an
160 authorized law enforcement officer. Such fingerprints must be
161 submitted to the Federal Bureau of Investigation for processing.
162 Foreign nationals shall submit such documents as necessary to
163 allow the division to conduct criminal history records checks in
164 the person's home country. The applicant must pay all costs of
165 fingerprint processing, and the division may charge a \$2
166 handling fee for each set of fingerprints.

167 (6) A person, corporation, or entity is not eligible for a
168 contest operator's license or the renewal of such license if the

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

169 person or an officer or a director of the corporation or entity
170 has been convicted of a felony in this state, a felony in
171 another state which would be a felony if committed in this
172 state, or a felony under the laws of the United States, or has
173 been determined by the division after investigation not to be of
174 good moral character. For purposes of this subsection, the term
175 "convicted" means having been found guilty, regardless of
176 adjudication of guilt, as a result of a jury verdict, nonjury
177 trial, or entry of a plea of guilty or nolo contendere.

178 (7) An applicant for a contest operator's license shall
179 provide evidence of a surety bond in the amount of \$1 million,
180 payable to the state, furnished by a corporate surety authorized
181 to do business in the state in such a form as established by
182 division rule. Such bond shall be kept in full force and effect
183 by the contest operator during the term of the license and any
184 renewal thereof.

185 Section 5. Section 546.15, Florida Statutes, is created to
186 read:

187 546.15 Consumer protection.-

188 (1) A contest operator that charges an entry fee to
189 contest participants shall implement commercially reasonable
190 procedures for its fantasy contests with an entry fee that are
191 intended to:

192 (a) Prevent an employee of the contest operator and
193 relatives of such employee residing in the same household as the

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

194 employee from participating in a fantasy contest which is open
195 to the public.

196 (b) Prohibit the contest operator from participating as a
197 contest participant in a fantasy contest offered by the contest
198 operator.

199 (c) Prevent an employee or agent of the contest operator
200 from sharing confidential information with third parties which
201 could affect fantasy contests until the information is made
202 publicly available.

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

205 (e) Restrict a person who is a player, game official, or
206 other participant in a real-world sporting or other event from
207 participating in a fantasy contest that is determined in whole
208 or in part on the person's performance, the performance of the
209 person's real-world team, or the accumulated statistical results
210 of the real-world sporting or other event in which the person is
211 a player, game official, or other participant.

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

215 (g) Disclose the number of entries that a single contest
216 participant may submit to each fantasy contest and take
217 reasonable steps to prevent contest participants from submitting
218 more than the allowable number of entries.

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

219 (h) Segregate contest participants' funds from operational
220 funds and maintain a reserve in the form of cash or cash
221 equivalent, an irrevocable letter of credit, a bond, or a
222 combination thereof, in the total amount of the deposits in
223 contest participants' accounts, for the benefit and protection
224 of authorized contest participants' funds held in the contest
225 participants' accounts.

226 (i) Prevent fantasy contests involving horseracing.

227 (2) For fantasy contests requiring an entry fee, a contest
228 operator must annually contract with a third party to perform an
229 independent audit, consistent with standards established by the
230 Public Company Accounting Oversight Board, to ensure the contest
231 operator's compliance with ss. 546.11-546.19. The contest
232 operator must annually submit the results of the independent
233 audit to the division.

234 (3) (a) A contest operator must provide training to
235 employees on responsible play and practices and coordinate with
236 the compulsive or addictive behavior prevention program
237 implemented pursuant to this subsection to recognize problem
238 situations, implement responsible play and practices, and
239 implement protections for underage participants.

240 (b) The division shall, subject to competitive bidding,
241 contract for services related to the prevention of compulsive or
242 addictive behavior related to fantasy contests. The contract
243 shall provide for an advertising program to encourage
244 responsible play and practices and to publicize a telephone help

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

245 line and shall include accountability standards that must be met
246 by any private provider. Failure of a private provider to meet
247 any material terms of the contract, including the accountability
248 standards, constitutes a breach of contract or grounds for
249 nonrenewal.

250 (c) The compulsive or addictive behavior prevention
251 program shall be funded by the allocation of 7.5 percent of
252 initial application fees and 7.5 percent of any subsequent
253 annual license renewal fees paid by contest operators to the
254 division.

255 Section 6. Section 546.16, Florida Statutes, is created to
256 read:

257 546.16 Authority of the division.—The division is
258 responsible for the administration and enforcement of ss.
259 546.11-546.19. The division is authorized to:

260 (1) Adopt rules for the administration and enforcement of
261 ss. 546.11-546.19. Such rules shall include, but need not be
262 limited to, procedures for the operation of fantasy contests,
263 recordkeeping and reporting requirements for contest operators,
264 and procedures for the collection of entry fees.

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

267 (3) Conduct investigations and monitor the operation of
268 fantasy contests.

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

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

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

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

277 (7) Monitor and enforce the collection and safeguard of
278 contest entry fees, the payment of contest prizes, and the
279 consumer protection provisions of s. 546.15.

280 (8) Coordinate with other department personnel as needed
281 to assist in the administration and enforcement of ss. 546.11-
282 546.19.

283 Section 7. Section 546.17, Florida Statutes, is created to
284 read:

285 546.17 Records and reports.-

286 (1) Each contest operator shall keep and maintain daily
287 records of its operations relevant to compliance with ss.
288 546.14-546.16 and shall maintain such records for at least 3
289 years. Such records shall include all financial transactions and
290 contain sufficient detail to determine compliance with the
291 requirements of this section. All records shall be available for
292 audit and inspection by the division or other law enforcement
293 agencies during the contest operator's regular business hours.
294 The information required in such records shall be determined by
295 division rule.

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

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

301 Section 8. Section 546.18, Florida Statutes, is created to
302 read:

303 546.18 Penalties.—In addition to other applicable civil,
304 administrative, and criminal penalties, a contest operator or an
305 employee or agent thereof that violates ss. 546.11-546.19 is
306 subject to a civil penalty not to exceed \$5,000 for each
307 violation, and not to exceed \$100,000 in the aggregate, which
308 shall accrue to the state and may be recovered in a civil action
309 brought by the division or the Department of Legal Affairs in
310 circuit court in the name and on behalf of the state; the same
311 to be applied when collected as all other penal forfeitures are
312 disposed of.

313 Section 9. Section 546.19, Florida Statutes, is created to
314 read:

315 546.19 Exemption.—Fantasy contests conducted in accordance
316 with ss. 546.11-546.19 by a contest operator licensed in
317 accordance with ss. 546.11-546.19, or by a noncommercial contest
318 operator, are not subject to ss. 849.01, 849.08, 849.09, 849.11,
319 849.14, or 849.25.

320 Section 10. The Division of Regulation of the Department
321 of Business and Professional Regulation may not penalize an

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

322 unlicensed contest operator for offering fantasy contests within
 323 240 days after the effective date of this act, if the contest
 324 operator applies for a license within 90 days after the
 325 effective date of this act and is issued such license within 240
 326 days after the effective date of this act.

327
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T I T L E A M E N D M E N T

Remove lines 2-3 and insert:

331 An act relating to the Department of Business and
 332 Professional Regulation; creating s. 546.11, F.S.;
 333 providing a short title; creating s. 546.12, F.S.;
 334 providing legislative findings and intent; creating s.
 335 546.13, F.S.; providing definitions; creating s.
 336 546.14, F.S.; requiring contest operators to obtain
 337 licenses from the Division of Regulation of the
 338 Department of Business and Professional Regulation to
 339 conduct fantasy contests in the state; providing an
 340 application fee and annual license renewal fees;
 341 providing application requirements; requiring the
 342 division to approve or deny a license within a
 343 specified timeframe; providing that a complete
 344 application is deemed approved under certain
 345 circumstances; providing that persons or entities are
 346 not eligible for licensure under certain
 347 circumstances; requiring a contest operator to provide

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

348 evidence of a surety bond; requiring the surety bond
349 to be kept during the term of the license and any
350 renewal term thereafter; creating s. 546.15, F.S.;
351 requiring contest operators to implement certain
352 procedures; requiring contest operators to contract
353 for independent audits and to annually submit the
354 results to the division; requiring contest operators
355 to coordinate with a compulsive or addictive behavior
356 prevention program and provide training to employees;
357 requiring the division to contract for services
358 related to the prevention of compulsive or addictive
359 behavior; creating s. 546.16, F.S.; authorizing the
360 division to adopt rules and perform certain duties;
361 authorizing the division to suspend, revoke, or deny a
362 license for certain violations; creating s. 546.17,
363 F.S.; requiring contest operators to keep and maintain
364 daily records and to make such records available for
365 inspection; requiring contest operators to file a
366 quarterly report; creating s. 546.18, F.S.; providing
367 penalties; authorizing the division or the Department
368 of Legal Affairs to bring certain civil actions;
369 creating s. 546.19, F.S.; providing that specified
370 provisions of chapter 849, F.S., relating to gambling
371 offenses, do not apply to fantasy contest operators
372 complying with certain requirements or to
373 noncommercial contest operators; prohibiting the

154547

Approved For Filing: 3/3/2016 1:29:26 PM

Amendment No.

374 | Division of Regulation from penalizing an unlicensed
375 | contest operator for a specified period of time;
376 | amending s. 326.004, F.S.; deleting a

154547

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