

By Senator Young

18-00385E-17

2017592\_\_

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.; defining terms;  
6           creating s. 546.14, F.S.; creating the Office of  
7           Amusements within the Department of Business and  
8           Professional Regulation; requiring that the office be  
9           under the supervision of a senior manager who is  
10          exempt from the Career Service System and is appointed  
11          by the secretary of the department; providing duties  
12          of the office; providing for rulemaking; creating s.  
13          546.15, F.S.; providing licensing requirements for  
14          contest operators offering fantasy contests; providing  
15          licensing application and renewal fees; requiring the  
16          office to grant or deny a license within a specified  
17          timeframe; providing that a completed application is  
18          deemed approved 120 days after receipt by the office  
19          under certain circumstances; exempting applications  
20          for a contest operator's license from certain  
21          licensure timeframe requirements; providing  
22          requirements for the license application; providing  
23          that specified persons or entities are not eligible  
24          for licensure under certain circumstances; defining  
25          the term "convicted"; authorizing the office to  
26          suspend, revoke, or deny a license under certain  
27          circumstances; creating s. 546.16, F.S.; requiring a  
28          contest operator to implement specified consumer  
29          protection procedures under certain circumstances;  
30          requiring a contest operator to annually contract with  
31          a third party to perform an independent audit under  
32          certain circumstances; requiring a contest operator to

18-00385E-17

2017592\_\_

33 submit the audit results to the office; creating s.  
34 546.17, F.S.; requiring contest operators to keep and  
35 maintain certain records for a specified period;  
36 requiring such records to be available for audit and  
37 inspection; providing for rulemaking; creating s.  
38 546.18, F.S.; providing a civil penalty; creating s.  
39 546.19, F.S.; exempting fantasy contests from certain  
40 provisions in ch. 849, F.S.; providing applicability  
41 of specified penalty provisions; providing a directive  
42 to the Division of Law Revision and Information;  
43 providing an effective date.  
44

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

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

49 546.11 Short title.—Sections 546.11-546.19 may be cited as  
50 the "Fantasy Contest Amusement Act."

51 Section 2. Section 546.12, Florida Statutes, is created to  
52 read:

53 546.12 Legislative intent.—It is the intent of the  
54 Legislature to ensure public confidence in the integrity of  
55 fantasy contests and fantasy contest operators. This act is  
56 designed to strictly regulate the operators of fantasy contests  
57 and individuals who participate in such contests and to adopt  
58 consumer protections related to fantasy contests. Furthermore,  
59 the Legislature finds that fantasy contests, as that term is  
60 defined in s. 546.13, involve the skill of contest participants  
61 and do not constitute gambling, gaming, or games of chance.

18-00385E-17

2017592\_\_

62 Section 3. Section 546.13, Florida Statutes, is created to  
63 read:

64 546.13 Definitions.—As used in ss. 546.11-546.19, the term:

65 (1) "Confidential information" means information related to  
66 the playing of fantasy contests by contest participants which is  
67 obtained solely as a result of a person's employment with, or  
68 work as an agent of, a contest operator.

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

71 (3) "Contest participant" means a person who pays an entry  
72 fee for the ability to participate in a fantasy contest offered  
73 by a contest operator.

74 (4) "Entry fee" means the cash or cash equivalent amount  
75 that is required to be paid by a person to a contest operator to  
76 participate in a fantasy contest.

77 (5) "Fantasy contest" means a fantasy or simulation sports  
78 game or contest offered by a contest operator or a noncommercial  
79 contest operator in which a contest participant manages a  
80 fantasy or simulation sports team composed of athletes from a  
81 professional sports organization and which meets the following  
82 conditions:

83 (a) All prizes and awards offered to winning contest  
84 participants are established and made known to the contest  
85 participants in advance of the game or contest and their value  
86 is not determined by the number of contest participants or the  
87 amount of any fees paid by those contest participants.

88 (b) All winning outcomes reflect the relative knowledge and  
89 skill of the contest participants and are determined  
90 predominantly by accumulated statistical results of the

18-00385E-17

2017592\_\_

91 performance of the athletes participating in multiple real-world  
92 sporting or other events. However, a winning outcome may not be  
93 based:

94 1. On the score, point spread, or any performance or  
95 performances of a single real-world team or any combination of  
96 such teams;

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

99 3. On a live pari-mutuel event, as the term "pari-mutuel"  
100 is defined in s. 550.002; or

101 4. On the performance of athletes participating in an  
102 amateur sporting event.

103 (6) "Noncommercial contest operator" means a person who  
104 organizes and conducts a fantasy contest in which contest  
105 participants are charged entry fees for the right to  
106 participate; entry fees are collected, maintained, and  
107 distributed by the same person; and all entry fees are returned  
108 to the contest participants in the form of prizes.

109 (7) "Office" means the Office of Amusements created in s.  
110 546.14.

111 Section 4. Section 546.14, Florida Statutes is created to  
112 read:

113 546.14 Office of Amusements.—

114 (1) The Office of Amusements is created within the  
115 Department of Business and Professional Regulation. The office  
116 shall operate under the supervision of a senior manager exempt  
117 under s. 110.205 in the Senior Management Service appointed by  
118 the Secretary of Business and Professional Regulation.

119 (2) The duties of the office include, but are not limited

18-00385E-17

2017592\_\_

120 to, administering and enforcing this act and any rules adopted  
121 pursuant to this act and any other duties authorized by the  
122 secretary. The office may work with department personnel as  
123 needed to assist in fulfilling its duties.

124 (3) The office may:

125 (a) Conduct investigations and monitor the operation and  
126 play of fantasy contests.

127 (b) Review the books, accounts, and records of any current  
128 or former contest operator.

129 (c) Suspend or revoke any license, after a hearing, for any  
130 violation of state law or rule.

131 (d) Take testimony, issue summons and subpoenas for any  
132 witness, and issue subpoenas duces tecum in connection with any  
133 matter within its jurisdiction.

134 (e) Monitor and ensure the proper collection and  
135 safeguarding of entry fees and the payment of contest prizes in  
136 accordance with consumer protection procedures adopted pursuant  
137 to s. 546.16.

138 (4) The office may adopt rules to implement and administer  
139 this act.

140 Section 5. Section 546.15, Florida Statutes, is created to  
141 read:

142 546.15 Licensing.—

143 (1) A contest operator that offers fantasy contests for  
144 play by persons in this state must be licensed by the office to  
145 conduct fantasy contests within this state. The initial license  
146 application fee is \$500,000, and the annual license renewal fee  
147 is \$100,000; however, the respective fees may not exceed 10  
148 percent of the amount of entry fees collected by a contest

18-00385E-17

2017592\_\_

149 operator from the operation of fantasy contests in this state,  
150 less the amount of cash or cash equivalents paid to contest  
151 participants. The office shall require the contest operator to  
152 provide written evidence of the proposed amount of entry fees  
153 and cash or cash equivalents to be paid to contest participants  
154 during the annual license period. Before renewing a license, the  
155 contest operator shall provide written evidence to the office of  
156 the actual entry fees collected and cash or cash equivalents  
157 paid to contest participants during the previous period of  
158 licensure. The contest operator shall remit to the office any  
159 difference in license fee which results from the difference  
160 between the proposed amount of entry fees and cash or cash  
161 equivalents paid to contest participants and the actual amounts  
162 collected and paid.

163 (2) The office shall grant or deny a completed application  
164 within 120 days after receipt. A completed application that is  
165 not acted upon by the office within 120 days after receipt is  
166 deemed approved, and the office shall issue the license.  
167 Applications for a contest operator's license are exempt from  
168 the 90-day licensure timeframe imposed in s. 120.60(1).

169 (3) The application must include:

170 (a) The full name of the applicant.

171 (b) If the applicant is a corporation, the name of the  
172 state in which the applicant is incorporated and the names and  
173 addresses of the officers, directors, and shareholders who hold  
174 15 percent or more equity.

175 (c) If the applicant is a business entity other than a  
176 corporation, the names and addresses of each principal, partner,  
177 or shareholder who holds 15 percent or more equity.

18-00385E-17

2017592\_\_

178 (d) The names and addresses of the ultimate equitable  
179 owners of the corporation or other business entity, if different  
180 from those provided under paragraphs (b) or (c), unless the  
181 securities of the corporation or entity are registered pursuant  
182 to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss.  
183 78a-78kk, and:

184 1. The corporation or entity files with the United States  
185 Securities and Exchange Commission the reports required by s. 13  
186 of that act; or

187 2. The securities of the corporation or entity are  
188 regularly traded on an established securities market in the  
189 United States.

190 (e) The estimated number of fantasy contests to be  
191 conducted by the applicant annually.

192 (f) A statement of the assets and liabilities of the  
193 applicant.

194 (g) If required by the office, the names and addresses of  
195 the officers and directors of any debtor of the applicant and of  
196 stockholders who hold more than 10 percent of the stock of the  
197 debtor.

198 (h) For each individual listed in the application as an  
199 officer or director, a complete set of fingerprints taken by an  
200 authorized law enforcement officer. The office shall submit such  
201 fingerprints to the Federal Bureau of Investigation for national  
202 processing. A foreign national shall submit such documents as  
203 necessary to allow the office to conduct criminal history  
204 records checks in the individual's home country. The applicant  
205 must pay the full cost of processing fingerprints and required  
206 documentation. The office also may charge a \$2 handling fee for

18-00385E-17

2017592\_\_

207 each set of fingerprints submitted.

208 (4) A person or entity is not eligible for licensure as a  
209 contest operator or for licensure renewal if the person or an  
210 officer or director of the entity is determined by the office,  
211 after investigation, not to be of good moral character or is  
212 found to have been convicted of a felony in this state, any  
213 offense in another jurisdiction which would be considered a  
214 felony if committed in this state, or a felony under the laws of  
215 the United States. As used in this subsection, the term  
216 "convicted" means having been found guilty, with or without  
217 adjudication of guilt, as a result of a jury verdict, nonjury  
218 trial, or entry of a plea of guilty or nolo contendere.

219 (5) The office may suspend, revoke, or deny the license of  
220 a contest operator who fails to comply with this act or rules  
221 adopted pursuant hereto.

222 Section 6. Section 546.16, Florida Statutes, is created to  
223 read:

224 546.16 Consumer protection.—

225 (1) A contest operator that charges an entry fee to contest  
226 participants shall implement procedures for fantasy contests  
227 which:

228 (a) Prevent employees of the contest operator, and  
229 relatives living in the same household as such employees, from  
230 competing in a fantasy contest in which a cash prize is awarded.

231 (b) Prohibit the contest operator from being a contest  
232 participant in a fantasy contest that he or she offers.

233 (c) Prevent employees or agents of the contest operator  
234 from sharing with third parties confidential information that  
235 could affect fantasy contest play until the information has been



18-00385E-17

2017592\_\_

236 made publicly available.

237 (d) Verify that contest participants are 18 years of age or  
238 older.

239 (e) Restrict an individual who is a player, a game  
240 official, or another participant in a real-world game or  
241 competition from participating in a fantasy contest that is  
242 determined, in whole or in part, on the performance of that  
243 individual, the individual's real-world team, or the accumulated  
244 statistical results of the sport or competition in which he or  
245 she is a player, game official, or other participant.

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

249 (g) Limit the number of entries a single contest  
250 participant may submit to each fantasy contest and take  
251 reasonable steps to prevent participants from submitting more  
252 than the allowable number of entries.

253 (h) Segregate contest participants' funds from operational  
254 funds or maintain a reserve in the form of cash, cash  
255 equivalents, payment processor reserves, payment processor  
256 receivables, an irrevocable letter of credit, a bond, or a  
257 combination thereof in the total amount of deposits in contest  
258 participants' accounts for the benefit and protection of  
259 authorized contest participants' funds held in fantasy contest  
260 accounts.

261 (2) A contest operator that offers fantasy contests in this  
262 state which require contest participants to pay an entry fee  
263 shall annually contract with a third party to perform an  
264 independent audit, consistent with the standards established by

18-00385E-17

2017592\_\_

265 the American Institute of Certified Public Accountants, to  
266 ensure compliance with this act. The contest operator shall  
267 submit the results of the independent audit to the office.

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

270 546.17 Records and reports.—Each contest operator shall  
271 keep and maintain daily records of its operations and shall  
272 maintain such records for at least 3 years. The records must  
273 sufficiently detail all financial transactions to determine  
274 compliance with the requirements of this section and must be  
275 available for audit and inspection by the office or other law  
276 enforcement agencies during the contest operator's regular  
277 business hours. The office shall adopt rules to implement this  
278 section.

279 Section 8. Section 546.18, Florida Statutes, is created to  
280 read:

281 546.18 Penalties.—A contest operator, or an employee or  
282 agent thereof, who violates this act is subject to a civil  
283 penalty, not to exceed \$5,000 for each violation and not to  
284 exceed \$100,000 in the aggregate, which shall accrue to the  
285 state. An action to recover such penalties may be brought by the  
286 office or the Department of Legal Affairs in the circuit courts  
287 in the name and on behalf of the state.

288 Section 9. Section 546.19, Florida Statutes, is created to  
289 read:

290 546.19 Exemption.—Fantasy contests conducted by a contest  
291 operator or noncommercial contest operator in accordance with  
292 this act are not subject to s. 849.01, s. 849.08, s. 849.09, s.  
293 849.11, s. 849.14, or s. 849.25.

18-00385E-17

2017592\_\_

294           Section 10. The penalty provisions established in s.  
295 546.18, Florida Statutes, do not apply to a contest operator who  
296 applies for a license within 90 days after the effective date of  
297 this act and receives a license within 240 days after the  
298 effective date of this act.

299           Section 11. The Division of Law Revision and Information is  
300 directed to replace the phrase "the effective date of this act"  
301 wherever it occurs in this act with the date the act becomes a  
302 law.

303           Section 12. This act shall take effect upon becoming a law.