

1 A bill to be entitled
2 An act relating to fantasy sports contests; creating
3 s. 849.51, F.S.; providing a short title; creating s.
4 849.52, F.S.; providing legislative intent; creating
5 s. 849.53, F.S.; defining terms; creating s. 849.54,
6 F.S.; providing for the enforcement and administration
7 of the act; authorizing the Division of Pari-mutuel
8 Wagering within the Department of Business and
9 Professional Regulation to take certain actions;
10 requiring the division to adopt rules; creating s.
11 849.55, F.S.; providing application requirements for
12 fantasy sports contest operator licenses; providing
13 that specified persons or entities are not eligible
14 for licensure under certain circumstances; defining
15 the term "convicted"; specifying that a contest
16 operator license is automatically suspended under
17 certain circumstances; providing an exception;
18 creating s. 849.56, F.S.; requiring a contest operator
19 to implement specified consumer protection procedures
20 under certain circumstances; defining the term
21 "relative"; requiring a contest operator to annually
22 contract with a third party to perform an independent
23 audit; requiring a contest operator to submit the
24 audit results to the division within a certain
25 timeframe; requiring a contest operator to use only

26 | specified statistics, results, outcomes, and other
 27 | data relating to a professional sporting event;
 28 | creating s. 849.57, F.S.; requiring contest operators
 29 | to keep and maintain certain records for a specified
 30 | period; providing a requirement for such records;
 31 | requiring that such records be available for audit and
 32 | inspection; requiring the division to adopt rules;
 33 | creating s. 849.58, F.S.; providing a civil penalty;
 34 | providing applicability; exempting fantasy contests
 35 | from certain provisions; creating s. 849.59, F.S.;
 36 | specifying that certain activities relating to fantasy
 37 | sports contests are not subject to certain gambling-
 38 | related prohibitions; including the regulation of
 39 | fantasy sports contests in a type two transfer
 40 | occurring on a certain date; providing an effective
 41 | date.

42 |

43 | Be It Enacted by the Legislature of the State of Florida:

44 |

45 | Section 1. Section 849.51, Florida Statutes, is created to
 46 | read:

47 | 849.51 Short title.—Sections 849.51-849.58 may be cited as
 48 | the "Fantasy Sports Contest Act."

49 | Section 2. Section 849.52, Florida Statutes, is created to
 50 | read:

51 849.52 Legislative intent.—It is the intent of the
52 Legislature to ensure public confidence in the integrity of
53 fantasy sports contests and contest operators. This act is
54 designed to regulate the contest operators and individuals who
55 participate in such contests and to enact consumer protections
56 related to fantasy sports contests.

57 Section 3. Section 849.53, Florida Statutes, is created to
58 read:

59 849.53 Definitions.—As used in ss. 849.51-849.58, the
60 term:

61 (1) "Act" means ss. 849.51-849.58.

62 (2) "Confidential information" means information related
63 to the playing of fantasy sports contests by contest
64 participants which a person obtains solely as a result of the
65 person's employment with, or work as an agent of, a contest
66 operator.

67 (3) "Contest operator" means a person or entity that
68 offers fantasy sports contests for a cash prize to members of
69 the public, but does not include a noncommercial contest
70 operator in this state.

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

74 (5) "Division" means the Division of Pari-mutuel Wagering
75 of the Department of Business and Professional Regulation.

76 (6) "Entry fee" means the cash or cash equivalent amount
77 that is required to be paid by a person to a contest operator or
78 noncommercial contest operator to participate in a fantasy
79 sports contest.

80 (7) "Fantasy sports contest" means a fantasy or simulation
81 sports game or contest offered by a contest operator or a
82 noncommercial contest operator in which a contest participant
83 manages a fantasy or simulation sports team composed of athletes
84 from a professional sports organization and which meets each of
85 the following requirements:

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

91 (b) All winning outcomes reflect the relative knowledge
92 and skill of the contest participants and are determined
93 exclusively by accumulated statistical results of the
94 performance of athletes.

95 (c) No winning outcome is based on the score, point
96 spread, or any performance or performances of any single actual
97 team or combination of such teams.

98 (d) Any winning outcome must be based on:

99 1. The performance of at least 7 individual athletes who
100 play in at least 5 separate actual team events; or

101 2. The performance of at least 5 players in individual
102 athlete sports.

103 (e) No winning outcome is based on a pari-mutuel event, as
104 the term "pari-mutuel" is defined in s. 550.002.

105 (f) No winning outcome is based on a game of poker or
106 other card game.

107 (g) No winning outcome is based on the performances of
108 participants in amateur, collegiate, high school, or youth
109 sporting events.

110 (h) No casino graphics, themes, or titles, including, but
111 not limited to, depictions of slot machine-style symbols, cards,
112 dice, craps, roulette, or lotto, are displayed or depicted.

113 (8) "Noncommercial contest operator" means a natural
114 person who organizes and conducts a fantasy sports contest in
115 which contest participants are charged entry fees for the right
116 to participate; entry fees are collected, maintained, and
117 distributed by the same natural person; the total entry fees
118 collected, maintained, and distributed by such natural person do
119 not exceed \$1,500 per season and a total of \$10,000 per calendar
120 year; and all entry fees are returned to the contest
121 participants in the form of prizes.

122 Section 4. Section 849.54, Florida Statutes, is created to
123 read:

124 849.54 Enforcement and administration; rulemaking.-

125 (1) The division shall enforce and administer this act.

126 (2) The division may:

127 (a) Conduct investigations and monitor the operation and
128 play of fantasy sports contests.

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

131 (c) Deny, suspend, or revoke any license under this act
132 for any violation of state law or rule.

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

136 (e) Monitor and ensure the proper collection and
137 safeguarding of entry fees and the payment of contest prizes in
138 accordance with consumer protection procedures enacted pursuant
139 to s. 849.56.

140 (f) Investigate any licensed or unlicensed person or
141 entity when such person or entity is advertising as offering or
142 providing, or is engaged in conducting, a fantasy sports contest
143 that requires licensure under this act or when a contest
144 operator or noncommercial contest operator is engaged in
145 activities that do not comply with or are prohibited by this
146 act. The division shall have the authority to issue an order to
147 such licensed or unlicensed person or entity or contest operator
148 or noncommercial contest operator to cease and desist the
149 further conduct of such activities, to seek an injunction, or to
150 take other appropriate action to enforce the requirements of

151 this act.

152 (3) The division shall adopt rules to implement and
153 administer this act. Such rules may not conflict with, and must
154 be applied, construed, and interpreted in a manner consistent
155 with, the gaming compact ratified, approved, and described in s.
156 285.710(3).

157 Section 5. Section 849.55, Florida Statutes, is created to
158 read:

159 849.55 Licensing.—

160 (1) A contest operator must be licensed by the division to
161 conduct fantasy sports contests within this state.

162 (2) The application must include:

163 (a) The full name of the applicant.

164 (b) If the applicant is a corporation, the name of the
165 state in which the applicant is incorporated and the names and
166 addresses of the officers, directors, and shareholders who hold
167 15 percent or more equity.

168 (c) If the applicant is a business entity other than a
169 corporation, the names and addresses of each principal, partner,
170 member, or other person who holds 15 percent or more equity or
171 interest.

172 (d) The names and addresses of the ultimate equitable
173 owners of the corporation or other business entity, if different
174 from those provided under paragraph (b) or paragraph (c), unless
175 the securities of the corporation or entity are registered

176 pursuant to s. 12 of the Securities Exchange Act of 1934, 15
177 U.S.C. ss. 78a-78kk, and:

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

181 2. The securities of the corporation or entity are
182 regularly traded on a national securities exchange registered
183 with the United States Securities and Exchange Commission.

184 (e) The estimated number of fantasy sports contests to be
185 conducted by the applicant annually.

186 (f) A statement of the assets and liabilities of the
187 applicant.

188 (g) If required by the division, the names and addresses
189 of the officers and directors of any creditor of the applicant
190 and of stockholders who hold more than 10 percent of the stock
191 of the creditor.

192 (h) For each individual listed in the application pursuant
193 to paragraph (a), paragraph (b), paragraph (c), or paragraph
194 (d), a full set of fingerprints to be submitted to the division
195 or to a vendor, entity, or agency authorized by s. 943.053(13).

196 1. The division, vendor, entity, or agency shall forward
197 the fingerprints to the Department of Law Enforcement for state
198 processing, and the Department of Law Enforcement shall forward
199 the fingerprints to the Federal Bureau of Investigation for
200 national processing.

201 2. Fingerprints submitted to the Department of Law
202 Enforcement pursuant to this paragraph shall be retained by the
203 Department of Law Enforcement as provided in s. 943.05(2)(g) and
204 (h) and, when the Department of Law Enforcement begins
205 participation in the program, shall be enrolled in the Federal
206 Bureau of Investigation's national retained print arrest
207 notification program. Any arrest record identified shall be
208 reported to the division by the Department of Law Enforcement.

209 (i) For each foreign national, such documents as necessary
210 to allow the division to conduct criminal history records
211 checks.

212 (3) A person or entity is not eligible for licensure as a
213 contest operator or for licensure renewal if an individual
214 required to be listed pursuant to paragraph (2)(a), paragraph
215 (2)(b), paragraph (2)(c), or paragraph (2)(d) is determined by
216 the division, after investigation, not to be of good moral
217 character or is found to have been convicted of a felony in this
218 state, any offense in another jurisdiction which would be
219 considered a felony if committed in this state, or a felony
220 under the laws of the United States. As used in this subsection,
221 the term "convicted" means having been found guilty, with or
222 without adjudication of guilt, as a result of a jury verdict,
223 nonjury trial, or entry of a plea of guilty or nolo contendere.

224 (4) The license of a contest operator is automatically
225 suspended upon entry of a final order imposing an administrative

226 fine against the contest operator, until the administrative fine
227 is paid, if 30 calendar days have elapsed since the entry of the
228 final order. The license of a contest operator may not be
229 renewed and an application for licensure as a contest operator
230 may not be approved if the contest operator or the applicant for
231 licensure as a contest operator is liable for an outstanding
232 administrative fine imposed under this act. Notwithstanding the
233 provisions of this subsection, a contest operator's license may
234 not be suspended and an application for licensure as a contest
235 operator may not be denied if the contest operator or the
236 applicant has an appeal from a final order pending in any
237 appellate court.

238 Section 6. Section 849.56, Florida Statutes, is created to
239 read:

240 849.56 Consumer protection.—

241 (1) A contest operator must implement procedures for
242 fantasy sports contests which:

243 (a) Prevent its employees, their relatives, or persons
244 living in the same household as the employees from competing in
245 a fantasy sports contest in which a cash prize is awarded. For
246 the purposes of this paragraph, the term "relative" means a
247 spouse, father, mother, son, daughter, grandfather, grandmother,
248 brother, sister, uncle, aunt, cousin, nephew, niece, father-in-
249 law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
250 sister-in-law, stepfather, stepmother, stepson, stepdaughter,

251 stepbrother, stepsister, half-brother, or half-sister.

252 (b) Prohibit the contest operator from being a contest
253 participant in a fantasy sports contest that it offers.

254 (c) Prevent its employees or agents from sharing with a
255 third party confidential information that could affect fantasy
256 sports contest play, until the information has been made
257 publicly available.

258 (d) Verify that contest participants are 21 years of age
259 or older.

260 (e) Restrict an individual who is an athlete, a game
261 official, or another participant in a real-world game or
262 competition from participating in a fantasy sports contest that
263 is determined, in whole or in part, on the performance of that
264 individual, the individual's real-world team, or the accumulated
265 statistical results of the sport or competition in which he or
266 she is an athlete, a game official, or another participant.

267 (f) Allow individuals to restrict or prevent their own
268 access to fantasy sports contests and take reasonable steps to
269 prevent those individuals from entering a fantasy sports
270 contest.

271 (g) Limit the number of entries a single contest
272 participant may submit to each fantasy sports contest and take
273 reasonable steps to prevent participants from submitting more
274 than the allowable number of entries.

275 (h) Segregate contest participants' funds from operational

276 funds or maintain a reserve in the form of cash, cash
277 equivalents, payment processor reserves, payment processor
278 receivables, an irrevocable letter of credit, a bond, or a
279 combination thereof in the total amount of deposits in contest
280 participants' accounts for the benefit and protection of
281 authorized contest participants' funds held in fantasy sports
282 contest accounts.

283 (i) Prevent the display of advertisements in publications
284 or other media in this state that are aimed exclusively or
285 primarily to persons under 21 years of age and prevent the
286 display of advertisements at events or locations that are
287 primarily attended by persons under 21 years of age.

288 (2) (a) A contest operator must annually contract with a
289 third party to perform an independent audit, consistent with the
290 standards established by the American Institute of Certified
291 Public Accountants, to ensure compliance with this act. The
292 contest operator shall submit the results of the independent
293 audit to the division within 90 days after the end of each
294 annual licensing period.

295 (b) A contest operator may only use statistics, results,
296 outcomes, and other data relating to a professional sporting
297 event which have been obtained from the relevant sport's
298 governing body or an entity expressly authorized by the sport's
299 governing body to provide such information to contest operators.

300 Section 7. Section 849.57, Florida Statutes, is created to

301 read:

302 849.57 Records and reports.—Each contest operator shall
303 keep daily records of its operations and shall maintain such
304 records for at least 3 years. The records must sufficiently
305 detail all financial transactions required to determine
306 compliance with the requirements of this act and must be
307 available for audit and inspection by the division or other law
308 enforcement agencies during the contest operator's regular
309 business hours. The division shall adopt rules to implement this
310 section.

311 Section 8. Section 849.58, Florida Statutes, is created to
312 read:

313 849.58 Penalties; applicability; exemption.—

314 (1) (a) A contest operator, or an employee or agent
315 thereof, who violates this act is subject to an administrative
316 fine, not to exceed \$5,000 for each violation and not to exceed
317 \$100,000 in the aggregate. All fines imposed and collected under
318 this subsection must be deposited with the Chief Financial
319 Officer to the credit of the General Revenue Fund. An action to
320 recover such penalties may be brought by the division or the
321 Department of Legal Affairs in the name and on behalf of the
322 state.

323 (b) The penalty provisions established in this subsection
324 do not apply to violations committed by a contest operator which
325 occurred before the issuance of a license under this act if the

326 contest operator applies for a license within 90 days after July
327 1, 2021, and receives a license within 240 days after July 1,
328 2021.

329 (2) Fantasy sports contests conducted by a contest
330 operator or noncommercial contest operator in accordance with
331 this act are not subject to s. 849.01, s. 849.08, s. 849.09, s.
332 849.11, s. 849.14, or s. 849.25.

333 (3) Any contest in which one or more participants pay a
334 fee or contribute anything of value to a contest in which
335 participants manage a fantasy or simulation sports team must
336 meet the definition and requirements of a fantasy sports contest
337 as defined in s. 849.53.

338 (4) Any person who offers, operates, or conducts any
339 contest in which one or more participants pay a fee or
340 contribute anything of value to a contest in which participants
341 manage a fantasy or simulation sports team must meet the
342 definition and requirements of a contest operator or a
343 noncommercial contest operator as defined in s. 849.53.

344 Section 9. Section 849.59, Florida Statutes, is created to
345 read:

346 849.59 Fantasy sports contest exemptions.—Sections 849.01,
347 849.08, 849.09, 849.11, 849.14, and 849.25 do not apply to
348 participation in or the conduct of fantasy sports contests
349 conducted pursuant to this chapter.

350 Section 10. If HB 3A, 2021 Special Session A, becomes a

HB 9A

2021A

351 law, subsection (1) of section 11 of HB 3A, 2021 Special Session
352 A, is amended to read:

353 (1) Effective July 1, 2022, all powers, duties, functions,
354 records, offices, personnel, associated administrative support
355 positions, property, pending issues, existing contracts,
356 administrative authority, administrative rules, and unexpended
357 balances of appropriations, allocations, and other funds in the
358 Department of Business and Professional Regulation related to
359 the oversight responsibilities by the state compliance agency
360 for authorized gaming compacts under s. 285.710, Florida
361 Statutes, the regulation of pari-mutuel wagering under chapter
362 550, Florida Statutes, the regulation of slot machines and slot
363 machine gaming under chapter 551, Florida Statutes, the
364 regulation of fantasy sports contests under chapter 849, Florida
365 Statutes, and the regulation of cardrooms under s. 849.086,
366 Florida Statutes, are transferred by a type two transfer, as
367 defined in s. 20.06(2), Florida Statutes, to the Florida Gaming
368 Control Commission within the Department of Legal Affairs,
369 Office of the Attorney General.

370 Section 11. This act shall take effect July 1, 2021.