

1 HB361
2 198718-4
3 By Representatives South, Clouse, Blackshear, Daniels,
4 England, Rowe, McCutcheon and Rogers
5 RFD: Economic Development and Tourism
6 First Read: 04-APR-19

1
2 ENROLLED, An Act,

3 Relating to regulating fantasy contests; to
4 establish the Fantasy Contests Act; to provide definitions of
5 certain terms; to require registration of certain fantasy
6 contest operators; to require certain fantasy contest
7 operators to implement procedures for consumer protection of
8 fantasy contest players; to exempt fantasy contests from the
9 prohibition against gambling; and in connection therewith
10 would have as its purpose or effect the requirement of a new
11 or increased expenditure of local funds within the meaning of
12 Amendment 621 of the Constitution of Alabama of 1901, now
13 appearing as Section 111.05 of the Official Recompilation of
14 the Constitution of Alabama of 1901, as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known and may be cited
17 as the Fantasy Contests Act.

18 Section 2. For the purposes of this act, the
19 following terms shall have the following meanings:

20 (1) CONFIDENTIAL INFORMATION. Information related to
21 the play of a fantasy contest by fantasy contest players
22 obtained as a result of, or by virtue of, a person's
23 employment.

1 (2) ENTRY FEE. Cash or cash equivalent that is
2 required to be paid by a fantasy contest player to a fantasy
3 contest operator in order to participate in a fantasy contest.

4 ~~(3) FANTASY CONTEST. Any fantasy or simulated game~~
5 ~~or contest in which one or more fantasy contest players~~
6 ~~compete and winning outcomes reflect the relative knowledge~~
7 ~~and skill of the fantasy contest players and are determined~~
8 ~~predominantly by accumulated statistical results of the~~
9 ~~performance of individuals, including athletes in the case of~~
10 ~~sporting events.~~

11 (3) FANTASY CONTEST. A simulated game of skill in
12 which both of the following are true:

13 a. Winning outcomes are determined predominately by
14 accumulated statistical results of performance of individual
15 athletes in actual sporting events.

16 b. Winning outcomes are not based on the score,
17 point spread, or any performance of any single actual sports
18 team or combination of teams or solely on any single
19 performance of an individual athlete in any single sporting
20 event.

21 (4) FANTASY CONTEST OPERATOR. A person or entity
22 that offers fantasy contests with an entry fee for a cash
23 prize to the general public.

1 (5) FANTASY CONTEST PLAYER. A person who
 2 participates in a fantasy contest offered by a fantasy contest
 3 operator.

4 (6) GROSS FANTASY CONTEST REVENUES. The amount equal
 5 to the total of all entry fees that a fantasy contest operator
 6 collects from all fantasy contest players, less the total of
 7 all sums paid out as winning to all fantasy contest players
 8 multiplied by the location percentage for Alabama.

9 (7) LOCATION PERCENTAGE. The percentage, rounded to
 10 the nearest tenth of a percent, of the total of all entry fees
 11 collected from fantasy contest players located in Alabama,
 12 divided by the total entry fees collected from all fantasy
 13 contest players in fantasy contests.

14 (8) NATIONAL GROSS FANTASY CONTEST REVENUES. The
 15 amount equal to the total of all entry fees that a fantasy
 16 contest operator collects from all fantasy contest players
 17 located in the United States, less the total of all sums paid
 18 out as winnings to all fantasy contest players.

19 (9) REGULATOR. The Office of the Attorney General.

20 Section 3. (a) (1) No fantasy contest operator shall
 21 offer any fantasy contest with an entry fee in this state
 22 without first being registered with the Office of the Attorney
 23 General. Applications for registration and renewal shall be
 24 under oath, in the form prescribed by the Attorney General.
 25 The Office of the Attorney General shall make applications for

1 operators available within 180 days of the effective date of
2 this act.

3 (2) A fantasy contest operator that offered fantasy
4 contests in this state prior to May 1, 2016, may operate
5 fantasy contests in this state upon the effective date of this
6 act, provided the operator files an application for
7 registration with the Office of the Attorney General within 60
8 days of availability of the application.

9 (b) The Office of the Attorney General may not adopt
10 rules limiting or regulating the rules or administration of an
11 individual fantasy contest, the statistical makeup of a
12 fantasy contest, or the digital platform of a fantasy contest
13 operator.

14 (c) At the time of initial registration to offer
15 fantasy contests with an entry fee in this state, a fantasy
16 contest operator shall pay to the Office of the Attorney
17 General an initial registration fee as follows:

18 (1) A fantasy contest operator that has national
19 gross fantasy contest revenues in excess of ten million
20 dollars (\$10,000,000) shall pay an initial registration fee of
21 eighty-five thousand dollars (\$85,000). A fantasy contest
22 operator registered under this subdivision shall pay to the
23 Office of the Attorney General an annual registration renewal
24 fee of eighty-five thousand dollars (\$85,000).

1 (2) All other fantasy contest operators shall pay an
2 initial registration fee of one thousand dollars (\$1,000). A
3 fantasy contest operator registered under this subdivision
4 shall pay to the Office of the Attorney General an annual
5 registration renewal fee of one thousand dollars (\$1,000).

6 (d) On the anniversary date of the fantasy contest
7 operator's registration, the fantasy contest operator shall
8 annually pay a tax equal to ~~six-eight~~ ten and one-half percent
9 of the fantasy contest operator's gross fantasy contest
10 revenues from the immediately preceding 12-month period. The
11 revenues shall be deposited to the credit of the State General
12 Fund.

13 (e) Any operator applying for registration, renewal,
14 or transfer of a registration may operate during the
15 application period unless the Office of the Attorney General
16 has reasonable cause to believe that the operator is or may be
17 in violation of this act, and the Office of the Attorney
18 General requires the operator to suspend the operation of any
19 fantasy contest until registration, transfer, or renewal of
20 registration is approved.

21 Section 4. A fantasy contest operator who operates
22 fantasy contests with an entry fee shall implement
23 commercially reasonable procedures that are intended to
24 accomplish all of the following:

1 (1) Prevent the fantasy contest operator, employees
2 of the fantasy contest operator, and relatives living in the
3 same household as the employees, from competing in any public
4 fantasy contest offered by any fantasy contest operator in
5 which the operator offers a cash prize to the general public.

6 (2) Prevent sharing of confidential information that
7 could affect fantasy contest play with third parties until
8 information is made publicly available.

9 (3) Verify that a fantasy contest player in a
10 fantasy contest is 19 years of age or older.

11 (4) Prevent the fantasy contest operator from
12 offering contests based on the performances of participants in
13 high school or youth athletic events.

14 (5) Prevent the fantasy contest operator from
15 offering a fantasy contest open to the general public that
16 does not establish and make known all prizes and awards
17 offered to winning participants in advance of the game or
18 contest.

19 (6) Provide that no winning outcome is based on the
20 score, point spread, or any performance of any single actual
21 sports team or combination of teams or solely on any single
22 performance of an individual athlete or participant in any
23 single actual event.

24 (7) Ensure that an individual who is a player in a
25 real-world game or sporting event is restricted from

1 participating in a fantasy contest that is determined, in
2 whole or in part, on the accumulated statistical results of
3 that player, the player's real-world team, or the sport of
4 competition for which he or she is a player.

5 (8) Allow individuals to restrict themselves from
6 entering a fantasy contest upon request and provide reasonable
7 steps to prevent the person from entering fantasy contests
8 offered by the fantasy contest operator.

9 (9) Disclose the number of entries that a fantasy
10 contest player may submit to each fantasy contest and provide
11 reasonable steps to prevent players from submitting more than
12 the allowable number.

13 (10) Segregate fantasy contest player funds from
14 operational funds or maintain a reserve that equals or exceeds
15 the amount of player funds on deposit, which reserve may not
16 be used for operational activities. These reserve funds may
17 take the form of cash, cash equivalents, an irrevocable letter
18 of credit, a bond, payment processor reserves and receivables,
19 or a combination thereof, in the amount that shall exceed the
20 total balances of the fantasy contest players' accounts.

21 (11) A fantasy contest operator offering fantasy
22 contests with an entry fee in this state shall contract with a
23 third party to annually perform an independent audit,
24 consistent with the standards established by the American
25 Institute of Certified Public Accountants, to ensure

1 compliance with this act and shall submit the results of the
2 audit to the Office of the Attorney General within 270 days of
3 the end of the operator's fiscal year.

4 (12) A fantasy contest operator offering fantasy
5 contests with an entry fee in this state shall not target
6 minors or other excluded players in any advertising.

7 Section 5. A violation of this act is a deceptive
8 trade practice under the Deceptive Trade Practices Act,
9 Chapter 19 of Title 8, Code of Alabama 1975.

10 Section 6. The provisions of this act shall be
11 construed liberally to promote the general welfare of the
12 public and integrity of the fantasy sports industry.

13 Section 7. The Office of the Attorney General may
14 adopt rules to implement and administer this act.

15 Section 8. Article 2 of Chapter 12 of Title 13A,
16 Code of Alabama 1975, does not apply to a fantasy contest.

17 Section 9. A fantasy contest offered pursuant to
18 this act does not constitute a lottery or gift enterprise
19 pursuant to Section 65 of the Official Recompilation of the
20 Constitution of Alabama of 1901, as amended.

21 Section 10. Nothing in this act shall be construed
22 to alter the existing authority of the state or any state
23 official with respect to any matter other than fantasy
24 contests as defined in this act.

1 Section 11. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

9 Section 12. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 08-MAY-19, as amended.

Jeff Woodard
Clerk

Senate	<hr/> 28-MAY-19 <hr/>	Amended and Passed
House	<hr/> 28-MAY-19 <hr/>	Concurred in Senate Amendment