

House Bill 118 (COMMITTEE SUBSTITUTE)

By: Representatives Kelley of the 16<sup>th</sup>, Harrell of the 106<sup>th</sup>, Clark of the 98<sup>th</sup>, Frye of the 118<sup>th</sup>, and Martin of the 49<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling  
2 and other trade practices, so as to provide for the registration, regulation, and taxation of  
3 fantasy contest operators; to provide for civil penalties; to exempt fantasy contests from  
4 certain criminal penalties; to provide for rules and regulations; to provide a short title; to  
5 provide for definitions; to provide for related matters; to repeal conflicting laws; and for  
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other  
10 trade practices, is amended by adding a new article to read as follows:

11 "ARTICLE 35

12 10-1-930.

13 This article shall be known and may be cited as the 'Registered Fantasy Contest Operators  
14 Act.'

15 10-1-931.

16 As used in this article, the term:

17 (1) 'Beginner' means any fantasy contest player who has entered fewer than 51 contests  
18 offered by a single fantasy contest operator and who has not won at least three fantasy  
19 contest prizes of \$1,000.00 or more.

20 (2) 'Commissioner' means the State Revenue Commissioner.

21 (3) 'Confidential information' means information related to the play of a fantasy contest  
22 by fantasy contest players obtained as a result of or by virtue of a person's employment.

- 23 (4) 'Entry fee' means cash or cash equivalent that is required to be paid by a fantasy  
24 contest player to a fantasy contest operator to enter a fantasy contest.
- 25 (5) 'Fantasy contest' means a simulated game or contest in which:
- 26 (A) An entry fee is required and the value of all prizes and awards offered is  
27 established and made known in advance of the game or contest;
- 28 (B) All winning outcomes reflect in part the relative knowledge and skill of those who  
29 enter such contest and are determined predominantly by accumulated statistical results  
30 of the performance of individuals participating in sporting events not organized by the  
31 fantasy contest operator or those who enter such contest and in which those entering the  
32 fantasy contest do not directly participate in any way;
- 33 (C) Winning outcomes are not based on the score, point spread, or any performance  
34 of any single actual team or combination of such teams in a sporting event, series of  
35 events or other competition or solely on any single performance of an individual in any  
36 single actual sporting event or other competition; and
- 37 (D) The statistical results of the performance of individuals under subparagraph (B) of  
38 this paragraph are not based on university, college, high school, or youth sporting  
39 events or other competitions.
- 40 (6) 'Fantasy contest operator' means a person that conducts a fantasy contest offered to  
41 the general public.
- 42 (7) 'Fantasy contest player' or 'player' means an individual who enters a fantasy contest  
43 offered by a fantasy contest operator.
- 44 (8) 'Gross fantasy contest revenues' means the amount equal to the total of all entry fees  
45 that a fantasy contest operator collects from all fantasy contest players, less the total of  
46 all sums paid out as prizes to all fantasy contest players, multiplied by the resident  
47 percentage for Georgia.
- 48 (9) 'Highly experienced player' means a fantasy contest player who has entered more  
49 than 1,000 contests offered by a single fantasy contest operator or who has won more  
50 than three fantasy contest prizes valued at \$1,000.00 or more.
- 51 (10) 'Person' means an individual, partnership, corporation, company, association, or any  
52 other entity.
- 53 (11) 'Resident percentage' means the percentage, rounded to the nearest tenth of a  
54 percent, of the total of entry fees collected by a fantasy contest operator from fantasy  
55 contest players located in Georgia, divided by the total entry fees collected from all  
56 fantasy contest players in fantasy contests offered by a fantasy contest operator within the  
57 United States.

58 10-1-932.

59 (a) No fantasy contest operator shall offer any fantasy contest in this state without first  
60 being registered with the commissioner, except a fantasy contest operator that offered  
61 fantasy contests in this state prior to the effective date of this article may continue to offer  
62 fantasy contests in this state, provided that such operator submits a written certification via  
63 certified mail, return receipt requested directed to the state revenue commissioner within  
64 ten days of the effective date of this article disclosing its name, address, and corporate  
65 officers and providing the amount of gross revenue collected from fantasy contest players  
66 within the state during the 12 months immediately preceding such certification and further  
67 files an application for registration with the commissioner within 30 days of the  
68 application's availability, and until such application for registration has been approved or  
69 denied.

70 (b) A fantasy contest operator's application for registration, and all attachments thereto,  
71 shall be exempt from public disclosure, but shall be subject to disclosure in response to a  
72 valid subpoena, court order, or other legal process and, without limitation, may be utilized  
73 by the commissioner in the enforcement of this article or the rules and regulations  
74 promulgated hereunder.

75 (c) Before registering to offer fantasy contests in this state, a fantasy contest operator shall  
76 undergo a background investigation conducted by the commissioner and the commissioner  
77 may refuse to register such fantasy operator, may refuse to annually renew a registration,  
78 or may suspend, revoke, or penalize a registration if:

79 (1) The registered fantasy contest operator or applicant has intentionally violated a  
80 provision of this article or a rule or regulation promulgated under this article;

81 (2) The registered fantasy contest operator or applicant has intentionally failed to provide  
82 requested information or answer a question, intentionally made a false statement in or in  
83 connection with his or her application or renewal, or omitted any material or requested  
84 information;

85 (3) The registered fantasy contest operator or applicant used coercion to accomplish a  
86 purpose or to engage in conduct regulated by the commissioner;

87 (4) Failure to deny, revoke, or suspend the registration would be contrary to the intent  
88 and purpose of this article;

89 (5) The registered fantasy contest operator or applicant has engaged in a violation of  
90 Article 15 of this chapter;

91 (6) The registered fantasy contest operator or applicant, or any officer or shareholder  
92 holding 5 percent or more interest in the operation for which an application has been  
93 submitted, has been convicted of a felony and served any part of a criminal sentence,

94 including probation, within the ten years immediately preceding the date of receipt of  
95 submission of the registration application;

96 (7) The registered fantasy contest operator or applicant, or any officer or shareholder  
97 holding 5 percent or more interest in the operation for which an application has been  
98 submitted, has been convicted of a misdemeanor or felony at any time for a crime  
99 involving gambling; or

100 (8) The registered fantasy contest operator or applicant, or any officer or shareholder  
101 holding 5 percent more interest in any operation for which an application has been  
102 submitted, fails to meet any obligations imposed by the tax laws or other laws or  
103 regulations of this state.

104 (d) Procedures for registration denials, revocations, suspensions, or other penalties shall  
105 be conducted by the commissioner in the same manner as under Title 3.

106 (e) A fantasy contest operator shall pay to the commissioner an annual registration fee as  
107 follows:

108 (1) For a fantasy contest operator with gross fantasy contest revenues for the  
109 preceding 12 months of \$3 million or more, the fantasy contest operator shall pay  
110 \$15,000.00; or

111 (2) For a fantasy contest operator with gross fantasy contest revenues for the  
112 preceding 12 months of less than \$3 million, the fantasy contest operator shall pay  
113 \$5,000.00.

114 (f) Not less than 60 nor more than 90 days prior to expiration of the fantasy contest  
115 operator's annual registration, the fantasy contest operator shall pay to the commissioner  
116 an annual registration renewal fee in accordance with the fee schedule in subsection (e) of  
117 this Code section. In addition to the annual registration fee, a fantasy contest operator shall  
118 annually pay over to the commissioner a tax of 6 percent of the fantasy contest operator's  
119 gross fantasy contest revenues for the preceding 12 months with the first such payment due  
120 upon issuance of the initial registration by the commissioner of the fantasy contest  
121 operator. The commissioner shall be authorized to direct that all or any fantasy contest  
122 operator remit such tax more frequently than annually, but no more frequently than  
123 monthly. Such tax shall be deemed to be collected and held in trust by the fantasy contest  
124 operator on behalf of the commissioner. Payment frequency is designed to protect the state  
125 in the event that the state has reason to believe the operator is in financial jeopardy. Trust  
126 designation is to further protect the state in the event of a bankruptcy filing by an operator.

127 (g) The registration described in this Code section shall be transferable at the discretion  
128 of the commissioner.

129 (h) A fantasy contest operator applying for renewal of a registration under this Code  
130 section may operate while awaiting renewal of its registration from the commissioner.

131 unless the commissioner has reasonable cause to believe that such fantasy contest operator  
132 is or may be in violation of the provisions of this article or the rules and regulations  
133 promulgated hereunder and the department notifies such fantasy contest operator to  
134 suspend the operation of fantasy contests until the renewal or transfer of registration is  
135 issued.

136 (i) As a condition of receiving and holding a registration pursuant to this article, a fantasy  
137 contest operator is deemed to consent to the jurisdiction of the commissioner to enforce this  
138 article in proceedings before the commissioner and to appear before the commissioner if  
139 directed and to provide such reports, documentation, and other information as may be  
140 required by the commissioner for the enforcement of this article or the rules and regulations  
141 of the commissioner. A fantasy contest operator further consents to the exclusive  
142 jurisdiction of the courts of this state for purposes of enforcement of this article, including,  
143 but not limited to, any proceedings related to the assessment or collection of the taxes and  
144 fees imposed under this article.

145 10-1-933.

146 (a) A fantasy contest operator shall submit evidence to the commissioner that such  
147 operator has established and will implement commercially reasonable procedures for such  
148 operator's fantasy contests that:

149 (1) Prevent employees of the fantasy contest operator and relatives living in the same  
150 household as such employees from entering any public fantasy contest offered by the  
151 fantasy contest operator;

152 (2) Prevent the sharing of confidential information that could affect fantasy contest play  
153 with third parties before such information is made publicly available;

154 (3) Not be permitted to participate in any fantasy contests that such person offers;

155 (4) Take reasonable steps to ensure that no persons under the age of 18 participate in any  
156 fantasy contest, including verifying that all fantasy contest players are 18 years of age or  
157 older;

158 (5) Provide fantasy contest players with access to information on responsible play;

159 (6) Provide fantasy contest players with access to information on seeking assistance for  
160 compulsive behavior;

161 (7) Provide each fantasy contest player access to such player's own play history and  
162 account details;

163 (8) Prevent individuals who participate, compete, or officiate in a sporting event or other  
164 competition that is the subject of a fantasy contest from entering such fantasy contest;

165 (9) Allow individuals to restrict themselves from entering a fantasy contest upon request  
166 and implement reasonable steps to prevent such individuals from entering any fantasy  
167 contests offered by the fantasy contest operator;

168 (10) Disclose the number of entries that a fantasy contest player may submit to  
169 participate in each fantasy contest and implement reasonable steps to prevent fantasy  
170 contest players from submitting more than the allowable number; and

171 (11) Segregate fantasy contest player funds from operational funds of the fantasy contest  
172 operator or maintain an irrevocable letter of credit, a bond, or a combination thereof, in  
173 a form acceptable to the commissioner, in the amount of the deposits made to the  
174 accounts of fantasy contest players for the benefit and protection of the funds held in such  
175 accounts.

176 (b) A fantasy contest operator offering fantasy contests with an entry fee in this state shall  
177 contract with a third-party auditor approved by the commissioner to perform an  
178 independent audit for each annual registration period, consistent with standards established  
179 by the American Institute of Certified Public Accountants, to ensure compliance with this  
180 article and submit the results of such audit to the commissioner. The third-party auditor's  
181 audit submission shall include a certification that the third-party auditor has concluded that  
182 the fantasy contest operator is in compliance with this article including the tax and fee  
183 provisions of this article for the audit period. Such third-party auditor and the fantasy  
184 contest operator shall be required to appear before the commissioner and to produce books,  
185 records, working papers, and any other supporting documentation to the commissioner at  
186 his or her direction.

187 (c) A fantasy contest operator offering fantasy contests in this state shall not target minors  
188 or other excluded players in any advertising.

189 (d) All fantasy contest operators shall develop fantasy contests that are limited to  
190 beginners and shall keep non-beginner players from participating, either directly or through  
191 another person as a proxy, in those fantasy contests. A fantasy contest operator shall  
192 suspend the account of any fantasy contest player who is not a beginner and who enters a  
193 beginner contest directly or through another person as a proxy and shall ban such  
194 individual from further play. A fantasy contest operator may allow a player who is not a  
195 beginner or a highly experienced player to enter up to ten beginner contests in any sport in  
196 which that player has not already entered 20 fantasy contests.

197 (e) In advance of accepting any entry fee, a fantasy contest operator shall ensure that all  
198 fantasy contests that it offers establish and make known to all potential players all prizes  
199 and awards offered to winning participants.

200 10-1-934.

201 In addition to any other remedies provided by law, a fantasy contest operator who violates  
202 this article is subject to a civil penalty of not more than \$5,000.00 for each violation not to  
203 exceed \$125,000.00 for violations arising out of the same transaction or occurrence, which  
204 shall accrue to the state and may be recovered in a civil action brought by the  
205 commissioner or as otherwise provided in this article.

206 10-1-935.

207 Fantasy contests offered by a fantasy contest operator properly registered in accordance  
208 with this article and operated in compliance with this article and the rules and regulations  
209 promulgated hereunder are exempt from Article 2 of Chapter 12 of Title 16.

210 10-1-936.

211 The commissioner shall be authorized to promulgate rules and regulations to administer  
212 this article which may include administrative penalties to be imposed upon registered  
213 fantasy contest operators for violation of this article or the rules and regulations of the  
214 commissioner. The commissioner is further authorized to require such appearances,  
215 reports, records, documentation, and other information from registered fantasy contest  
216 operators and parties acting on their behalf as the commissioner deems necessary for the  
217 administration of this article and the rules and regulations of the commissioner. The taxes,  
218 fees, and penalties imposed pursuant to this article shall be subject to interest and penalties  
219 and administered, assessed, and enforced in accordance with Chapters 2, 3, and 4 of Title  
220 48 and the commissioner may require a proper surety bond to secure the same. The  
221 commissioner is specifically authorized to issue and enforce an execution for all amounts  
222 due the state under this article. The remedies provided in this Code section shall be in  
223 addition to all other remedies provided in this article."

224 **SECTION 2.**

225 All laws and parts of laws in conflict with this Act are repealed.