

House Bill 118

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

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"ARTICLE 35

10-1-930.

This article shall be known and may be cited as the 'Fantasy Contests Act.'

10-1-931.

As used in this article, the term:

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

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

(3) 'Department' means the Secretary of State, or his or her designee.

(4) 'Entry fee' means cash or cash equivalent that is required to be paid by a fantasy contest player to a fantasy contest operator to enter a fantasy contest.

(5) 'Fantasy contest' means a simulated game or contest in which:

(A) The value of all prizes and awards offered is established and made known in advance of the game or contest;

(B) All winning outcomes reflect the relative knowledge and skill of those who enter such game or contest and are determined predominantly by accumulated statistical results of the performance of individuals in sporting events or other competitions;

(C) Winning outcomes are not based on the score, point spread, or any performance of any single actual team or combination of such teams in a sporting event or other competition or solely on any single performance of an individual in any single actual sporting event or other competition; and

(D) The statistical results of the performance of individuals under subparagraph (B) of this paragraph are not based on university, college, high school, or youth sporting events or other competitions.

(6) 'Fantasy contest operator' means a person that conducts a fantasy contest that has an entry fee, a cash prize, and is offered to the general public.

(7) 'Fantasy contest player' or 'player' means an individual who enters a fantasy contest offered by a fantasy contest operator.

(8) 'Gross fantasy contest revenues' means the amount equal to the total of all entry fees that a fantasy contest operator collects from all fantasy contest players, less the total of all sums paid out as prizes to all fantasy contest players, multiplied by the resident percentage for Georgia.

(9) 'Highly-experienced player' means a fantasy contest player who has entered more than 1,000 contests offered by a single fantasy contest operator or who has won more than three fantasy contest prizes valued at \$1,000.00 or more.

(10) 'Person' means an individual, partnership, corporation, company, association, or any other entity.

(11) 'Resident percentage' means the percentage, rounded to the nearest tenth of a percent, of the total of entry fees collected from fantasy contest players located in Georgia, divided by the total entry fees collected from all fantasy contest players in fantasy contests.

10-1-932.

(a) No fantasy contest operator shall offer any fantasy contest with an entry fee in this state without first being registered with the department, except a fantasy contest operator that offered fantasy contests in this state prior to the effective date of this article may continue to offer fantasy contests with an entry fee in this state, provided that such operator files an application for registration with the department within 30 days of the application's availability, and until such application for registration has been approved or denied.

(b) A fantasy contest operator's application for registration, and all attachments thereto, shall be exempt from public disclosure.

(c) The department shall not adopt rules or regulations limiting or regulating the rules or administration of an individual fantasy contest, the statistical makeup of a fantasy contest, or the digital platform of a fantasy contest operator.

(d) Before obtaining a registration to offer fantasy contests with an entry fee in this state, a fantasy contest operator shall pay to the department a registration fee as follows:

(1) For a fantasy contest operator with gross fantasy contest revenues for the preceding 12 months of \$5 million or more, the fantasy contest operator shall pay \$50,000.00;

(2) For a fantasy contest operator with gross fantasy contest revenues for the preceding 12 months of \$4 million or more, but less than \$5 million, the fantasy contest operator shall pay \$40,000.00;

(3) For a fantasy contest operator with gross fantasy contest revenues for the preceding 12 months of \$3 million or more, but less than \$4 million, the fantasy contest operator shall pay \$30,000.00;

(4) For a fantasy contest operator with gross fantasy contest revenues for the preceding 12 months of \$2 million or more, but less than \$3 million, the fantasy contest operator shall pay \$20,000.00; or

(5) For a fantasy contest operator with gross fantasy contest revenues for the preceding 12 months of less than \$2 million, the fantasy contest operator shall pay \$10,000.00.

(e) On the anniversary date of the fantasy contest operator's registration, the fantasy contest operator shall annually pay to the department a registration renewal fee in accordance with the fee schedule in subsection (d) of this Code section.

(f) In addition to the registration fee, a fantasy contest operator shall annually pay to the department a tax of 6 percent of the fantasy contest operator's gross fantasy contest revenues for the preceding 12 months of registration.

(g) The registration described in this Code section shall be transferable.

(h) A fantasy contest operator applying for renewal or transfer of a registration under this Code section may operate while awaiting renewal of its application from the department, unless the department has reasonable cause to believe that such fantasy contest operator is or may be in violation of the provisions of this article and the department notifies such fantasy contest operator to suspend the operation of fantasy contests until the renewal or transfer of registration is issued.

10-1-933.

(a) A fantasy contest operator shall implement procedures for its fantasy contests that are intended to:

(1) Prevent employees of the fantasy contest operator and relatives living in the same household as such employees from entering a fantasy contest with a cash prize offered by such fantasy contest operator;

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

(3) Prevent the fantasy contest operator from participating in any fantasy contests that such person offers;

(4) Verify that a fantasy contest player is 18 years of age or older;

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

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

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

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

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

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

(11) Segregate fantasy contest player funds from operational funds of the fantasy contest operator or maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof, in the amount of the deposits made to the accounts of fantasy contest players for the benefit and protection of the funds held in such accounts.

(b) A fantasy contest operator offering fantasy contests with an entry fee in this state shall contract with a third party to annually perform an independent audit, consistent with standards established by the American Institute of Certified Public Accountants, to ensure compliance with this Code section and submit the results of such audit to the department.

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

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

10-1-934.

A person, firm, corporation, association, agent, or employee who violates this article is subject to a civil penalty of not more than \$1,000.00 for each violation, which shall accrue to the state and may be recovered in a civil action brought by the department.

10-1-935.

Fantasy contests are exempt from Article 2 of Chapter 12 of Title 16.

10-1-936.

The department shall be authorized to promulgate rules and regulations necessary to implement and administer this article."

SECTION 2.

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