



OHIO LEGISLATIVE SERVICE COMMISSION

Final Analysis

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Sub. H.B. 132

132nd General Assembly
(As Passed by the General Assembly)

Reps. Dever and McColley, Blessing, Cera, Seitz

Sens. Burke, Eklund, Oelslager

Effective date: March 23, 2018

ACT SUMMARY

- Grants the Ohio Casino Control Commission authority to investigate, license, penalize, and regulate anyone conducting or participating in a "fantasy contest."
- Defines "fantasy contest" as a simulated contest with an entry fee, where prize values are known in advance, with the outcome determined by conditions related to statistical results based on a player's skill in anticipating the performance of a roster of athletes, that does not involve horses or horse racing.
- Requires a fantasy contest operator to obtain a license from the Commission to operate a fantasy contest in Ohio.
- Requires the Commission to adopt rules to govern the conduct of a fantasy contest, including rules excluding certain individuals from playing a fantasy contest, governing internal procedures of fantasy contest operators, and establishing licensure conditions.
- Requires a fantasy contest operator to conduct audits as determined sufficient by the Commission.
- Prohibits a fantasy contest operator from offering fantasy contests based on youth or college sports, allowing contest players to use certain computer programs, targeting certain persons in advertising materials, or operating fantasy contests on a kiosk in a business location.

* This version updates the effective date.

- Exempts fantasy contests from the Gambling Law.

CONTENT AND OPERATION

Fantasy contests

The act grants the Ohio Casino Control Commission authority to investigate, license, penalize, and regulate anyone conducting or participating in a "fantasy contest" in Ohio and directs the Commission to adopt rules under the Administrative Procedure Act governing the operation of a fantasy contest. "Fantasy contests" are defined as simulated games or contests a person must pay a fee to enter, in which: (1) the value of all prizes and awards are established and made known ahead of the contest, (2) all winning outcomes are based on the relative skill and knowledge of the players, as determined by accumulated statistical results of the performance of a roster of athletes in actual sporting events, (3) winning outcomes are not based on randomized or historical events, or on the score or performance of any individual athlete, single team, or combination of teams in an actual sporting event, and (4) horses or horse racing are not a part of the contest.¹

The act also clarifies that fees imposed by the Commission to regulate fantasy contests and skill-based amusement machines must be deposited into the Casino Control Commission Fund.²

Rules governing fantasy contests

The act requires the Commission to adopt rules under the Administrative Procedure Act to govern the conduct of fantasy contests. The Commission is directed to adopt rules to:

- Prohibit employees of fantasy contest operators, relatives living in the same households as those employees, and athletes and officials in the underlying sports contests from competing in public fantasy contests or from sharing with third parties material nonpublic information that was obtained as a result of employment;
- Ensure fantasy contest operators prohibit access to minors and anyone who has requested to restrict themselves from entering fantasy contests;

¹ R.C. 3772.03(L) and 3774.01(C).

² R.C. 3772.03(M).



- Establish requirements for funds controlled by fantasy contest operators, including maintaining player funds separate from operational funds or a reserve of player funds that may not be used for operational activities, and prescribing the forms these reserve funds may take;
- Prescribe requirements related to beginning and highly experienced players;
- Establish requirements for fantasy contest operators' internal procedures to ensure compliance with state and federal privacy laws, suspend the accounts of players who violate the law, regulate the number of fantasy contests a person can enter, and provide players with information on playing responsibly;
- Require fantasy contest operators to designate at least one key employee as a licensure condition. A key employee must be responsible for ensuring that the act's requirements are met.
- Establish the length of time for which a license may be valid, not to exceed three years;
- Establish the license fee, not to exceed \$30,000 for a three-year license; and
- Any other procedure or thing the Commission determines necessary to establish consumer protections or regulate fantasy contests.³

Commission may not adopt certain rules

The act prohibits the Commission from adopting rules that would (1) limit or regulate a fantasy contest operator's digital platform or the statistical makeup of a game, or (2) require licensure of any person who is not an operator, holding company, or management company. A "holding company" is a business organization with the power to control a fantasy contest operator or that owns or holds voting rights over at least 10% of an operator. A "management company" is a company hired by a fantasy contest operator to maintain a fantasy contest platform and perform associated business services.⁴

³ R.C. 3774.01(H) and (J) and 3774.03(A)(1) through (9) and (C).

⁴ R.C. 3774.01(G) and (I) and 3774.03(B).



Fantasy contest operator licensure

Under the act, a fantasy contest operator cannot offer a fantasy contest in Ohio without first obtaining a license to do so from the Commission. A person operating a pool not conducted for profit, such as an office sports pool, in which all money collected from the contest players is paid as prize money, is not a fantasy contest operator under the act and does not need to obtain a license to operate the pool.⁵

To obtain or renew a license, a fantasy contest operator must pay a nonrefundable license fee set by the Commission, not to exceed \$10,000 for a one-year license or \$30,000 for a three-year license. The operator must establish suitability for a license by clear and convincing evidence.⁶

The Commission may investigate licensees to ensure compliance with statutes and rules. If a licensee is found to be violating statutes or rules, the Commission may penalize an operator or deny, revoke, limit or suspend a license, after conducting an adjudication under the Administrative Procedure Act. The Commission may also renew a license for up to three years after the licensee pays the renewal fee and the Commission verifies the licensee's compliance with statutes and rules.⁷

Grace period for current operators

A fantasy contest operator offering fantasy contests in Ohio on the act's effective date may continue to operate without interruption, until the Commission issues or denies a license for the operator. The operator must apply for a license no more than 30 days after the Commission makes the license application available.⁸

Records submitted with license application not public records

Information concerning internal procedures of a fantasy contest operator, personal information, financial information, trade secrets, or privileged attorney-client communications provided to the Commission during the license application process are confidential and not subject to disclosure by any state agency or political subdivision under the Public Records Law. However, the Commission may share the information provided by an operator with other appropriate licensing or governmental agencies as

⁵ R.C. 3774.01(D) and 3774.02.

⁶ R.C. 3774.02 and 3774.03(A)(8).

⁷ R.C. 3774.02 and 3774.07.

⁸ Section 3 of the act.



needed, if those agencies comply with the same confidentiality protections as the Commission.⁹

Operator records

The act requires a fantasy contest operator to maintain records relating to: the operator's business structure, correspondence or reports from governmental agencies (including the Commission), financial statements and accounting, the conduct of fantasy contests in Ohio, promotional materials, and any other records the Commission requires the operator to maintain in rules. The operator must maintain the records for at least five years, and must organize them so the Commission can locate, inspect, review, and analyze them with ease and efficiency.¹⁰

Audit of operator

A fantasy contest operator offering fantasy contests in Ohio must conduct audits as determined sufficient by the Commission.¹¹

Prohibited conduct

Fantasy contest operators are prohibited from offering fantasy contests based on youth or college sports events or allowing players to use "scripts," or computer commands that automate processes involved in playing a fantasy contest, unless the script is available to all players.

Advertising by operators may not be false or misleading, target players who have restricted themselves from entering fantasy contests, or target minors. Fantasy contests also may not be operated on kiosks or machines in business locations.¹²

Gambling law exemption

Fantasy contests offered according to the act and the rules subsequently adopted by the Commission are exempted from the Gambling Law.¹³ Ohio's Gambling Law does not directly address fantasy contests.

⁹ R.C. 3774.08.

¹⁰ R.C. 3774.04.

¹¹ R.C. 3774.05.

¹² R.C. 3774.06.

¹³ R.C. 3770.09.



HISTORY

ACTION	DATE
Introduced	03-16-17
Reported, H. Gov't Accountability & Oversight	05-24-17
Passed House (82-15)	05-24-17
Reported, S. Finance	11-29-17
Passed Senate (25-4)	11-29-17
House concurred in Senate Amendments (92-3)	12-05-17

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