

**SUBSTITUTE FOR
HOUSE BILL NO. 4308**

A bill to regulate the conduct of fantasy contests; to protect Michigan participants in fantasy contests; to require licensing of the operators of fantasy contests; to impose fees on the operators of fantasy contests; to provide for the powers and duties of certain state governmental officers and entities; to prohibit violations of this act; to prescribe civil sanctions; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "fantasy contests consumer protection act".

3 Sec. 2. As used in this act:

4 (a) "Athletic event" means a real world professional,
5 collegiate, or nationally recognized sports game, contest, or



1 competition that involves the physical exertion and skill of the
2 participating individual athletes, as to which each participant is
3 physically present at the location in which the sports game,
4 contest, or competition occurs, and the outcome of the sports game,
5 contest, or competition is directly dependent on the performance of
6 the participating athletes.

7 (b) "Board" means the Michigan gaming control board created
8 under section 4 of the Michigan gaming control and revenue act,
9 1996 IL 1, MCL 432.204.

10 (c) "Entry fee" means a cash or cash equivalent amount that a
11 fantasy contest operator requires to be paid by a fantasy contest
12 player to participate in a fantasy contest.

13 (d) "Fantasy contest" means a simulated game or contest with
14 an entry fee that meets all of the following conditions:

15 (i) No fantasy contest team is composed of the entire roster of
16 a real world sports team.

17 (ii) No fantasy contest team is composed entirely of individual
18 athletes who are members of the same real world sports team.

19 (iii) Each prize and award or the value of all prizes and awards
20 offered to winning fantasy contest players is made known to the
21 fantasy contest players in advance of the fantasy contest.

22 (iv) Each winning outcome reflects the relative knowledge and
23 skill of the fantasy contest players and are determined by the
24 aggregated statistical results of the performance of multiple
25 individual athletes selected by the fantasy contest player to form
26 the fantasy contest team, whose individual performances in the
27 fantasy contest directly correspond with the actual performance of
28 those athletes in the athletic event in which those individual
29 athletes participated.



(v) A winning outcome is not based on randomized or historical events, or on the score, point spread, or performance in an athletic event of a single real-world sports team, a single athlete, or any combination of real-world sports teams.

(vi) The fantasy contest does not constitute or involve and is not based on any of the following:

(A) Racing involving animals.

(B) A game or contest ordinarily offered by a horse track or casino for money, credit, or any representative of value, including any races, games, or contests involving horses or that are played with cards or dice.

(C) A slot machine or other mechanical, electromechanical, or electronic device, equipment, or machine, including computers and other cashless wagering systems.

(D) Poker, blackjack, faro, monte, keno, bingo, fan tan, twenty one, seven and a half, Klondike, craps, chuck a luck, Chinese chuck a luck, Wheel of Fortune, Chemin de Fer, Baccarat, Pai Gow, Beat the Banker, Panguingui, roulette, or other banking or percentage games.

(E) Any other game or device authorized by the board under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(vii) A fantasy contest must not be based on a high school or youth sporting event or any event that is not an athletic event.

(viii) A fantasy contest must not be conducted in a manner that involves or results in betting on a race, game, contest, or on sports.

(e) "Fantasy contest operator" means a person that operates, carries on, conducts, maintains, exposes, or offers for play



1 fantasy contests and awards prizes of value.

2 (f) "Fantasy contest platform" means any digital or online
3 method through which a fantasy contest operator provides access to
4 a fantasy contest.

5 (g) "Fantasy contest player" means an individual who
6 participates in a fantasy contest offered by a fantasy contest
7 operator.

8 (h) "Fantasy contest team" means the simulated team composed
9 of multiple individual athletes, each of whom is a member of a real
10 world sports team, that a fantasy contest player selects to compete
11 in a fantasy contest.

12 (i) "Highly experienced player" means a fantasy contest player
13 who has done at least 1 of the following:

14 (i) Entered more than 1,000 fantasy contests offered by a
15 single fantasy contest operator.

16 (ii) Won more than 3 prizes valued at \$1,000.00 each or more
17 from a single fantasy contest operator.

18 (j) "Holding company" means a corporation, firm, partnership,
19 limited partnership, limited liability company, trust, or other
20 form of business organization that is not an individual and that
21 directly or indirectly does either of the following:

22 (i) Holds an ownership interest of 5% or more, as determined by
23 the board, in a fantasy contest operator.

24 (ii) Holds voting rights with the power to vote 5% or more of
25 the outstanding voting rights of a fantasy contest operator.

26 (k) "Key employee" means an employee of a fantasy contest
27 operator who has the power to exercise significant influence over
28 decisions concerning the fantasy contest operator.

29 (l) "Licensed fantasy contest operator" means a fantasy contest



1 operator that is licensed by the board under this act.

2 (m) "Management company" means a person retained by a fantasy
3 contest operator to manage a fantasy contest platform and provide
4 general administration and other operational services.

5 (n) "Person" means an individual, partnership, corporation,
6 association, or other legal entity. Person includes a sovereign
7 tribal government and its business entities.

8 (o) "Protected information" means information related to the
9 playing of fantasy contests by fantasy contest players that is
10 obtained by a fantasy contest operator.

11 (p) "Script" means a list of commands that a fantasy-contest-
12 related computer program can execute and that is created by a
13 fantasy contest player, or by a third party for a fantasy contest
14 player, to automate processes on a fantasy contest platform.

15 Sec. 3. (1) Except as otherwise provided in this section, a
16 person shall not offer fantasy contests in this state unless the
17 person is a licensed fantasy contest operator.

18 (2) An individual may offer, solely from his or her private
19 residence, 1 or more fantasy contests, if none of the contests are
20 made available to the general public, each of the contests is
21 limited to no more than 15 total fantasy contest players, and the
22 individual collects no more than \$10,000.00 in total entry fees for
23 all fantasy contests offered in a calendar year, at least 95% of
24 which entry fees are awarded to the fantasy contest players.

25 (3) A person that met the definition of fantasy contest
26 operator in this state on May 1, 2018 may continue offering fantasy
27 contests until the fantasy contest operator is issued or denied a
28 license under this act if the person applies for a license within
29 60 days after the date the application for the license is made



1 available by the board.

2 (4) A casino licensee licensed by the board under the Michigan
3 gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226,
4 may offer and conduct fantasy contests without applying for or
5 holding a license under this act.

6 (5) To ensure the integrity of fantasy contests, the board has
7 jurisdiction over each person involved in the conduct of a fantasy
8 contest. The board may promulgate rules related to the conduct of
9 fantasy contests, including rules setting forth penalties for
10 violations of this act or any rules promulgated under this act.

11 (6) A person seeking to be licensed as a fantasy contest
12 operator shall submit an application, with the applicable fee, to
13 the board. The applicant shall provide sufficient documentation to
14 the board to ensure that the applicant meets the requirements for
15 licensure as determined by the board, including, but not limited
16 to, documentation of all of the following:

17 (a) The name of the applicant.

18 (b) The location of the applicant's principal place of
19 business.

20 (c) The applicant's telephone number.

21 (d) The applicant's Social Security number or, if applicable,
22 the applicant's federal tax identification number.

23 (e) The name and address of each person that holds a 5% or
24 greater ownership interest in the applicant or in shares of the
25 applicant.

26 (f) The applicant's criminal record, if any, or, if the
27 applicant is a business entity, any criminal record of an
28 individual who is a director, officer, or key employee of, or who
29 has a 5% or greater ownership interest in, the applicant.



1 (g) Any ownership interest that a director, officer, key
2 employee, or individual owner of 5% or greater of the applicant
3 holds in a person that is or was a fantasy contest operator or
4 similar entity in any jurisdiction.

5 (h) An identification of any business, including, if
6 applicable, the state of incorporation or registration, in which an
7 applicant, director, officer, key employee, or individual owner of
8 5% or greater, has an equity interest of 5% or more.

9 (i) Whether an applicant, director, officer, key employee, or
10 individual owner of 5% or greater has ever applied for or been
11 granted any license, registration, or certificate issued by a
12 licensing authority in this state or any other jurisdiction.

13 (j) Whether an applicant, director, officer, key employee, or
14 individual owner of 5% or greater has filed, or been served with, a
15 complaint or other notice filed by a public body regarding the
16 delinquency in payment of, or dispute over filings concerning, the
17 payment of any tax required under federal, state, or local law,
18 including the amount, the type of tax, the taxing agency, and the
19 time periods involved.

20 (k) A description of any physical facility operated by the
21 applicant in this state, the employees who work at the facility,
22 and the nature of the business conducted at the facility.

23 (l) Information sufficient to show, as determined by the board,
24 that the applicant can meet the requirements of procedures
25 submitted by the applicant under this act and under any rules
26 promulgated under this act.

27 (7) The board may require licensure of a holding company,
28 management company, or any other person it considers sufficiently
29 connected to the fantasy contest operator if that licensure is



1 necessary to preserve the integrity of fantasy contests and protect
2 fantasy contest players.

3 (8) A license issued under this section is valid for 1 year.
4 The board shall renew a license each year if the applicant
5 demonstrates continued eligibility for licensure under this act and
6 pays the renewal fee. Notwithstanding this subsection, the board
7 may investigate a licensee at any time the board determines it is
8 necessary to ensure that the licensee remains in compliance with
9 this act and the rules promulgated under this act.

10 (9) The initial license fee is \$50,000.00. The annual license
11 renewal fee is \$20,000.00. The board may assess investigative costs
12 if the cost of a licensure investigation exceeds the amount of the
13 license or renewal fee.

14 Sec. 4. (1) As a condition of licensure, a fantasy contest
15 operator must submit to, and receive approval from, the board
16 commercially reasonable procedures and internal controls intended
17 to accomplish all of the following:

18 (a) Prevent the fantasy contest operator, its owners,
19 directors, officers, and employees, and any relative of any of
20 these individuals living in the same household, from participating
21 in a fantasy contest other than a fantasy contest offered by the
22 fantasy contest operator for which participation is limited to the
23 persons described in this subdivision.

24 (b) Prevent the employees or agents of the fantasy contest
25 operator from sharing protected information with third parties
26 unless the protected information is otherwise made publicly
27 available.

28 (c) Prevent participants and officials in an athletic event
29 from participating in a fantasy contest that is based on the



1 athletic event.

2 (d) Establish the number of entries a single fantasy contest
3 player may enter in a single fantasy contest and take reasonable
4 steps to prevent fantasy contest players from submitting more than
5 the allowable number of entries.

6 (e) Identify each highly experienced fantasy contest player by
7 a symbol attached to the highly experienced fantasy contest
8 player's username.

9 (f) Offer some fantasy contests that are open only to players
10 other than highly experienced fantasy contest players.

11 (g) Either of the following:

12 (i) Segregate the deposits in the fantasy contest players'
13 accounts from operational money.

14 (ii) Maintain a reserve in the form of cash, cash equivalents,
15 an irrevocable letter of credit, a bond, or a combination of these,
16 the aggregate amount of which exceeds the total dollar value amount
17 of deposits in the fantasy contest players' accounts, and which
18 reserve must not be used for operational activities.

19 (h) Ensure compliance with the applicable state and federal
20 requirements to protect the privacy and online security of a
21 fantasy contest player and the fantasy contest player's account.

22 (i) Otherwise ensure the integrity of fantasy contests.

23 (2) A licensed fantasy contest operator shall comply with the
24 procedures and internal controls that are submitted to the board
25 under subsection (1) and approved by the board. A licensed fantasy
26 contest operator may make technical adjustments to its procedures
27 and internal controls if the adjustments are not material and it
28 notifies the board in advance and continues to meet or exceed the
29 standards required by this act and any rules promulgated by the



1 board.

2 (3) Procedures submitted to the board under subsection (1) are
3 confidential and privileged, are not subject to disclosure under
4 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,
5 are not subject to subpoena, and are not subject to discovery or
6 admissible in evidence in a private civil action.

7 Sec. 5. By July 1 of each year, a licensed fantasy contest
8 operator shall contract with a certified public accountant to
9 perform an independent audit in accordance with generally accepted
10 accounting principles of the financial condition of the licensed
11 fantasy contest operator's total operations for the previous fiscal
12 year and to ensure compliance with section 4(1)(g) and for any
13 other purpose the board considers appropriate. A licensed fantasy
14 contest operator shall submit the audit results under this section
15 to the board not later than 180 days after the end of the fantasy
16 contest operator's fiscal year. The results of an audit submitted
17 to the board under this section is confidential and privileged, is
18 not subject to disclosure under the freedom of information act,
19 1976 PA 442, MCL 15.231 to 15.246, is not subject to subpoena, and
20 is not subject to discovery or admissible in evidence in a private
21 civil action.

22 Sec. 6. A fantasy contest operator shall prohibit an
23 individual who is less than 18 years of age from participating in a
24 fantasy contest.

25 Sec. 7. A licensed fantasy contest operator shall not do any
26 of the following:

27 (a) Allow the use of a script unless the script is made
28 readily available to all fantasy contest players.

29 (b) Employ false, deceptive, or misleading advertising, or



1 advertising that is not based on fact.

2 (c) Target, in advertising or promotions, either of the
3 following:

4 (i) Individuals who have restricted themselves from entering a
5 fantasy contest under the procedures established by the board.

6 (ii) Individuals who are less than 18 years of age.

7 Sec. 8. (1) A fantasy contest must not be offered on, at, or
8 from any of the following:

9 (a) A kiosk or machine physically located in a retail business
10 location, bar, restaurant, or other commercial establishment.

11 (b) A place of public accommodation.

12 (c) A facility owned, operated, or occupied by a private club,
13 association, or similar membership-based organization.

14 (2) This section does not apply to a casino licensee licensed
15 by the board under the Michigan gaming control and revenue act,
16 1996 IL 1, 432.201 to 432.226.

17 Sec. 9. (1) A licensed fantasy contest operator shall make
18 available on the licensed fantasy contest operator's website
19 information about resources relating to compulsive gaming behavior
20 including a telephone number or link to information on compulsive
21 gaming behavior and where to seek assistance for compulsive gaming
22 behavior.

23 (2) A licensed fantasy contest operator shall make available,
24 by website, telephone, or online chat, a means to allow an
25 individual to irrevocably restrict the individual's ability to
26 enter a fantasy contest and to select the length of time the
27 restriction will be in effect.

28 (3) A licensed fantasy contest operator shall offer a fantasy
29 contest player access to the fantasy contest player's playing



1 history, including a summary of entry fees expended, games played,
2 previous lineups, and prizes awarded.

3 Sec. 10. The board shall promulgate rules to implement this
4 act under the administrative procedures act of 1969, 1969 PA 306,
5 MCL 24.201 to 24.328, including, but not limited to, rules that
6 address all of the following:

7 (a) Requiring a fantasy contest operator to implement
8 commercially reasonable procedures to prohibit access to both of
9 the following:

10 (i) Individuals who request to restrict themselves from playing
11 fantasy contests.

12 (ii) Individuals who are less than 18 years of age.

13 (b) Prescribing requirements related to beginning players and
14 highly experienced players.

15 (c) Suspending the account of a fantasy contest player who
16 violates this act or a rule promulgated under this act.

17 (d) Providing a fantasy contest player with access to
18 information on playing responsibly and how to ask for assistance
19 for compulsive gaming behavior.

20 (e) Requiring an applicant for a fantasy contest operator
21 license to designate at least 1 key employee as a condition for
22 obtaining a license.

23 (f) Any other rule the board determines is necessary to ensure
24 the integrity of fantasy contests.

25 Sec. 11. (1) A licensed fantasy contest operator shall retain
26 and maintain in a place secure from theft, loss, or destruction all
27 of the records required to be maintained under this act and the
28 rules promulgated under this act for at least 3 years after the
29 date of the record's creation.



1 (2) A licensed fantasy contest operator shall organize all
2 records under subsection (1) in a manner that enables the licensed
3 fantasy contest operator to provide the board with the records.

4 (3) Information obtained under this section is confidential
5 and privileged, is not subject to disclosure under the freedom of
6 information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject
7 to subpoena, and is not subject to discovery or admissible as
8 evidence in a private civil action.

9 Sec. 12. (1) The board may suspend, revoke, or restrict the
10 license of a fantasy contest operator that violates this act, a
11 rule promulgated under this act, or an order of the board.

12 (2) The board may impose a civil fine of not more than
13 \$20,000.00 for a violation of this act, a rule promulgated under
14 this act, or an order of the board.

15 (3) A fine imposed under this section is payable to this state
16 and may be recovered in a civil action brought by the board.

17 Sec. 13. (1) A person shall not do any of the following:

18 (a) Except as otherwise provided in section 4, offer a fantasy
19 contest in this state unless the person is licensed by the board.

20 (b) Knowingly make a false statement on an application for a
21 license to be issued under this act.

22 (c) Knowingly provide false testimony to the board or any
23 authorized representative of the board while under oath.

24 (2) The board shall not issue a license under this act to a
25 person that violates subsection (1).

26 (3) A person that violates subsection (1)(a) is guilty of a
27 crime as follows:

28 (a) For the first or second violation, the person is guilty of
29 a misdemeanor punishable by imprisonment for not more than 1 year



1 or a fine of not more than \$10,000.00, or both.

2 (b) For a third or subsequent violation, the person is guilty
3 of a felony punishable by imprisonment for not more than 5 years or
4 a fine of not more than \$50,000.00, or both.

5 (4) The board may issue a cease and desist order and obtain
6 injunctive relief against a person that violates this act.

7 Sec. 14. A fantasy contest conducted under this act does not
8 violate the Michigan penal code, 1931 PA 328, MCL 750.1 to 750.568.
9 This act does not create an exemption to a violation of chapter
10 XLIV of the Michigan penal code, 1931 PA 328, MCL 750.301 to
11 750.315a.

12 Enacting section 1. This act takes effect 90 days after the
13 date it is enacted into law.

