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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2016	.	
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The Committee on Regulated Industries (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 546.11, Florida Statutes, is created to
read:

546.11 SHORT TITLE.—Sections 546.11-546.18 may be cited as
the "Fantasy Contest Amusement Act."

Section 2. Section 546.12, Florida Statutes, is created to
read:



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11 546.12. LEGISLATIVE INTENT.—It is the intent of the
12 Legislature to ensure public confidence in the integrity of
13 fantasy contests and fantasy contest operators. This act is
14 designed to strictly regulate the operators of fantasy contests
15 and individuals who participate in such contests and to adopt
16 consumer protections related to fantasy contests. Furthermore,
17 the Legislature finds that fantasy contests, as that term is
18 defined in s. 546.13, involve the skill of contest participants
19 and do not constitute gambling, gaming, or games of chance.

20 Section 3. Section 546.13, Florida Statutes, is created to
21 read:

22 546.13 DEFINITIONS.—As used in this chapter, the term:

23 (1) "Confidential information" means information related to
24 the playing of fantasy contests by contest participants which is
25 obtained solely as a result of a person's employment with or
26 work as an agent of a contest operator.

27 (2) "Contest operator" means a person or entity that offers
28 fantasy contests for a cash prize to members of the public.

29 (3) "Contest participant" means a person who pays a fee for
30 the ability to participate in a fantasy contest offered by a
31 contest operator.

32 (4) "Entry fee" means the cash or cash equivalent amount
33 that is required to be paid by a fantasy contest player to a
34 fantasy contest operator to participate in a fantasy contest.

35 (5) "Fantasy contest" means a fantasy or simulation sports
36 game or contest offered by a contest operator or a noncommercial
37 contest operator in which a contest participant manages a
38 fantasy or simulation sports team composed of athletes from an
39 amateur or professional sports organization and which meets the



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40 following conditions:

41 (a) All prizes and awards offered to winning participants
42 are established and made known to the participants in advance of
43 the game or contest and their value is not determined by the
44 number of participants or the amount of any fees paid by those
45 participants.

46 (b) All winning outcomes reflect the relative knowledge and
47 skill of the participants and are determined predominantly by
48 accumulated statistical results of the performance of the
49 athletes participating in multiple real-world sporting or other
50 events. However, a winning outcome may not be based:

51 1. On the score, point spread, or any performance or
52 performances of a single real-world team or any combination of
53 such teams;

54 2. Solely on any single performance of an individual
55 athlete in a single real-world sporting or other event; or

56 3. On a live pari-mutuel event, as the term "pari-mutuel"
57 is defined by s. 550.002.

58 (6) "Noncommercial contest operator" means a person who
59 organizes and conducts a fantasy contest in which contest
60 participants are charged entry fees for the right to
61 participate; entry fees are collected, maintained, and
62 distributed by the same person; and all entry fees are returned
63 to the players in the form of prizes.

64 (7) "Office" means the Office of Amusements created in s.
65 546.14.

66 Section 4. Section 546.14, Florida Statutes is created to
67 read:

68 546.14 OFFICE OF AMUSEMENTS.—



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69 (1) The Office of Amusements is created within the
70 Department of Business and Professional Regulation. The office
71 shall operate under the supervision of a senior manager exempt
72 under s. 110.205 in the Senior Management Service appointed by
73 the secretary.

74 (2) The duties of the office include, but are not limited
75 to, administering and enforcing this act and any rules adopted
76 pursuant thereto and any other duties authorized by the
77 Secretary of Business and Professional Regulation. The office
78 may work with department personnel as needed to assist in
79 fulfilling its duties.

80 (3) The office may:

81 (a) Conduct investigations and monitor the operation and
82 play of fantasy contests.

83 (b) Review the books, accounts, and records of any current
84 or former contest operator.

85 (c) Suspend or revoke any license, after hearing, for any
86 violation of state law or rule.

87 (d) Take testimony, issue summons and subpoenas for any
88 witness, and issue subpoenas duces tecum in connection with any
89 matter within its jurisdiction.

90 (e) Monitor and ensure the proper collection and
91 safeguarding of contest fees and the payment of contest prizes
92 in accordance with consumer protection procedures adopted
93 pursuant to s. 546.16.

94 (4) The office may adopt rules to implement this act.

95 Section 5. Section 546.15, Florida Statutes, is created to
96 read:

97 546.15 LICENSING.—



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98 (1) A contest operator that offers fantasy contests for
99 play by persons in this state must be licensed by the office to
100 conduct fantasy contests within this state. The initial license
101 application fee is \$500,000 and the annual license renewal fee
102 is \$100,000, however, the respective fees may not exceed 10
103 percent of the amount of entry fees collected by a contest
104 operator from the operation of fantasy contests in this state,
105 less the amount of cash or cash equivalents paid to contest
106 participants. The office shall require the contest operator to
107 provide written evidence of the proposed amount of entry fees
108 and cash or cash equivalents to be paid to contest participants
109 during the annual license period. Prior to renewing a license,
110 the contest operator shall provide written evidence to the
111 office of the actual entry fees collected and cash or cash
112 equivalents paid to contest participants during the previous
113 period of licensure. The contest operator shall remit to the
114 office any difference in license fee that results from the
115 difference between the proposed amount of entry fees and cash or
116 cash equivalents paid to contest participants and the actual
117 amounts collected and paid.

118 (2) The office shall grant or deny a complete application
119 within 120 days after receipt, and a completed application that
120 is not acted upon by the office within 120 days after receipt is
121 deemed approved, and the office shall issue the license.
122 Applications for a contest operator's license are exempt from
123 the 90-day licensure timeframe imposed in s. 120.60(1).

124 (3) The application must include:
125 (a) The full name of the applicant.
126 (b) If the applicant is a corporation, the name of the



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127 state in which the applicant is incorporated and the names and
128 addresses of the officers, directors, and shareholders of the
129 corporation who hold 5 percent or more equity.

130 (c) If the applicant is a business entity other than a
131 corporation, the names and addresses of the principals,
132 partners, or shareholders who hold 5 percent or more equity.

133 (d) The names and addresses of the ultimate equitable
134 owners of the corporation or other business entity, if different
135 from those provided under paragraphs (b) and (c), unless the
136 securities of the corporation or entity are registered pursuant
137 to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss.
138 78a-78kk, and:

139 1. The corporation or entity files with the United States
140 Securities and Exchange Commission, the reports required by s.
141 13 of that act; or

142 2. The securities of the corporation or entity are
143 regularly traded on an established securities market in the
144 United States.

145 (e) The estimated number of fantasy sports contests to be
146 conducted by the applicant annually.

147 (f) A statement of the assets and liabilities of the
148 applicant.

149 (g) If required by the office, the names and addresses of
150 the officers and directors of any debtor of the applicant and of
151 stockholders who hold more than 10 percent of the stock of the
152 debtor.

153 (h) For each individual listed in the application as an
154 officer or director, a complete set of fingerprints taken by an
155 authorized law enforcement officer. The office shall submit such



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156 fingerprints to the Federal Bureau of Investigation for national
157 processing. Foreign nationals shall submit such documents as
158 necessary to allow the office to conduct criminal history
159 records checks in the individual's home country. The applicant
160 must pay the full cost of processing fingerprints and required
161 documentation. The office also may charge a \$2 handling fee for
162 each set of fingerprints submitted.

163 (4) A person or entity is not eligible for licensure as a
164 contest operator or licensure renewal if he or she or an officer
165 or director of the entity is determined by the office, after
166 investigation, not to be of good moral character or if found to
167 have been convicted of a felony in this state, any offense in
168 another jurisdiction which would be considered a felony if
169 committed in this state, or a felony under the laws of the
170 United States. For purposes of this subsection, the term
171 "convicted" means having been found guilty, with or without
172 adjudication of guilt, as a result of a jury verdict, nonjury
173 trial, or entry of a plea of guilty or nolo contendere.

174 (5) The contest operator shall provide evidence of a surety
175 bond in the amount of \$1 million, payable to the state,
176 furnished by a corporate surety authorized to do business. The
177 surety bond shall be kept in full force and effect by the
178 contest operator during the term of the license and any renewal
179 thereof. The office shall adopt by rule the form required for
180 such surety bond.

181 (6) The office may suspend, revoke, or deny the license of
182 a contest operator who fails to comply with this act or rules
183 adopted pursuant thereto.

184 Section 6. Section 546.16, Florida Statutes, is created to



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185 read:

186 546.16 Consumer protection.-

187 (1) A contest operator who charges an entry fee to contest
188 participants shall implement procedures for fantasy sports
189 contests which:

190 (a) Prevent employees of the fantasy contest operator, and
191 relatives living in the same household as such employees, from
192 competing in a fantasy contest in which a cash prize is awarded.

193 (b) Prohibit the contest operator from being a contest
194 participant in a fantasy contest that he or she offers.

195 (c) Prevent the employees or agents of the contest operator
196 from sharing with third parties confidential information that
197 could affect fantasy contest play until the information has been
198 made publicly available.

199 (d) Verify that contest participants are 18 years of age or
200 older.

201 (e) Restrict an individual who is a player, a game
202 official, or another participant in a real-world game or
203 competition from participating in a fantasy contest that is
204 determined, in whole or in part, on the performance of that
205 individual, the individual's real-world team, or the accumulated
206 statistical results of the sport or competition in which he or
207 she is a player, game official, or other participant.

208 (f) Allow individuals to restrict or prevent their own
209 access to such a fantasy contest and take reasonable steps to
210 prevent those individuals from entering a fantasy sports
211 contest.

212 (g) Limit the number of entries a single contest
213 participant may submit to each fantasy contest and take



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214 reasonable steps to prevent participants from submitting more
215 than the allowable number of entries.

216 (h) Segregate contest participants' funds from operational
217 funds and maintain a reserve in the form of cash, cash
218 equivalents, an irrevocable letter of credit, a bond, or a
219 combination thereof in the total amount of deposits in contest
220 participants' accounts for the benefit and protection of
221 authorized contest participants' funds held in fantasy contest
222 accounts.

223 (2) A contest operator that offers fantasy contests in this
224 state which require contest participants to pay an entry fee
225 shall annually contract with a third party to perform an
226 independent audit, consistent with the standards established by
227 the Public Company Accounting Oversight Board, to ensure
228 compliance with this act. The contest operator shall submit the
229 results of the independent audit to the office.

230 Section 7. Section 546.17, Florida Statutes is created to
231 read:

232 546.17 RECORDS AND REPORTS.—

233 (1) Each contest operator shall keep and maintain daily
234 records of its operations and shall maintain such records for a
235 period of at least 3 years. The records must sufficiently detail
236 all financial transactions to determine compliance with the
237 requirements of this section and must be available for audit and
238 inspection by the office or other law enforcement agencies
239 during the contest operator's regular business hours. The office
240 shall adopt rules to implement this subsection.

241 (2) Each contest operator shall file quarterly with the
242 office a report that includes the required records and any



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243 additional information deemed necessary by the office. The
244 report shall be submitted on forms prescribed by the office, and
245 are deemed public records once filed.

246 Section 8. Section 546.18, Florida Statutes, is created to
247 read:

248 546.18 PENALTIES.—A contest operator, or an employee or
249 agent thereof, who violates this act is subject to a civil
250 penalty not to exceed \$5,000 for each violation, not to exceed
251 \$100,000 in the aggregate, which shall accrue to the state. An
252 action to recover such penalties may be brought by the office or
253 the Department of Legal Affairs in the circuit courts in the
254 name and on behalf of the state.

255 Section 9. Section 546.19, Florida Statutes, is created to
256 read:

257 546.19 Exemption.—Fantasy contests conducted by a contest
258 operator and noncommercial contest operator in accordance with
259 this act are not subject to s. 849.01, s. 849.08, s. 849.09, s.
260 849.11, s. 849.14, or s. 849.25.

261 Section 10. The penalty provisions established by s.
262 546.18, Florida Statutes, do not apply to a contest operator who
263 applies for a license within 90 days after the effective date of
264 this act and receives a license within 240 days after the
265 effective date of this act.

266 Section 11. This act shall take effect upon becoming law.

267
268 ===== T I T L E A M E N D M E N T =====

269 And the title is amended as follows:

270 Delete everything before the enacting clause
271 and insert:



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272 A bill to be entitled
273 An act relating to fantasy contests; creating s.
274 546.11, F.S.; providing a short title; creating s.
275 546.12, F.S.; providing legislative findings and
276 intent; creating s. 546.13, F.S.; defining terms;
277 creating s. 545.14, F.S.; creating the Office of
278 Amusement within the Department of Business and
279 Professional Regulation; requiring that the office be
280 under the supervision of a senior manager who is
281 exempt from the Career Service System and is appointed
282 by the secretary of the department; providing duties
283 of the office; providing for rulemaking; creating s.
284 546.15, F.S.; providing licensing requirements for
285 contest operators offering fantasy contests; exempting
286 applicants for a contest operator's license from
287 certain licensing requirements for a specified period
288 of time after receipt of a complete application by the
289 Office of Amusements; requiring the office to grant or
290 deny a license within a specified timeframe; providing
291 that a completed application is deemed approved 120
292 days after receipt by the office under certain
293 circumstances; providing requirements for the license
294 application; providing that persons or entities are
295 not eligible for licensure under certain
296 circumstances; providing a definition; requiring a
297 contest operator to provide evidence of a surety bond;
298 requiring the surety bond to be kept during the term
299 of the license and any renewal term thereafter;
300 authorizing the office to suspend, revoke, or deny a



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301 license under certain circumstances; creating s.
302 546.16, F.S.; requiring a contest operator to
303 implement specified consumer protection procedures;
304 requiring a contest operator to annually contract with
305 a third party to perform an independent audit;
306 requiring a contest operator to submit the audit
307 results to the department; creating s. 546.17, F.S.;
308 requiring contest operators to keep and maintain
309 certain records for a specified period; providing
310 requirements; requiring a contest operator to file a
311 quarterly report with the office; providing for
312 rulemaking; creating s. 546.18, F.S.; providing a
313 civil penalty; creating s. 546.19, F.S.; exempting
314 fantasy contests from regulation under ch. 849, F.S.;
315 providing applicability of penalty provisions;
316 providing an effective date.