

By Senator Hutson

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1 A bill to be entitled
2 An act relating to the Fantasy Sports Contest
3 Amusement Act; creating s. 546.11, F.S.; providing a
4 short title; creating s. 546.12, F.S.; providing
5 legislative findings and intent; creating s. 546.13,
6 F.S.; defining terms; creating s. 546.14, F.S.;
7 providing for the enforcement and administration of
8 the Fantasy Sports Contest Amusement Act; authorizing
9 the Division of Pari-mutuel Wagering within the
10 Department of Business and Professional Regulation to
11 take certain actions; authorizing the division to
12 adopt rules; creating s. 546.15, F.S.; providing
13 application requirements for fantasy sports contest
14 operator licenses; providing that specified persons or
15 entities are not eligible for licensure under certain
16 circumstances; defining the term "convicted";
17 specifying that a contest operator license is
18 automatically suspended under certain circumstances;
19 providing an exception; creating s. 546.16, F.S.;
20 requiring a contest operator to implement specified
21 consumer protection procedures under certain
22 circumstances; defining the term "relative"; requiring
23 a contest operator to annually contract with a third
24 party to perform an independent audit; requiring a
25 contest operator to submit the audit results to the
26 division within a certain timeframe; requiring a
27 contest operator to use only specified statistics,
28 results, outcomes, and other data relating to a
29 professional sporting event; creating s. 546.17, F.S.;

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30 requiring contest operators to keep and maintain
31 certain records for a specified period; providing a
32 requirement for such records; requiring that such
33 records be available for audit and inspection;
34 requiring the division to adopt rules; creating s.
35 546.18, F.S.; providing a civil penalty; providing
36 applicability; exempting fantasy contests from certain
37 provisions in ch. 849, F.S.; amending s. 16.71, F.S.;
38 prohibiting the Governor from soliciting or requesting
39 certain information from a person with a license to
40 conduct fantasy sports contests; amending s. 16.712,
41 F.S.; conforming provisions to changes made by the
42 act; amending s. 16.713, F.S.; revising prohibitions
43 relating to appointment to and employment with the
44 division to include prohibitions relating to fantasy
45 sports contest licenses; amending s. 16.715, F.S.;
46 revising prohibitions relating to former commissioners
47 and employees of the commission to include
48 prohibitions relating to fantasy sports contest
49 licenses; creating s. 849.144, F.S.; specifying that
50 certain activities relating to fantasy sports contests
51 are not subject to certain gambling-related
52 prohibitions; amending SB 4A to include the regulation
53 of fantasy sports contests in a type two transfer
54 occurring on a certain date; providing a contingent
55 effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Section 546.11, Florida Statutes, is created to
60 read:

61 546.11 Short title.—Sections 546.11-546.18 may be cited as
62 the “Fantasy Sports Contest Amusement Act.”

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

65 546.12 Legislative intent; findings.—It is the intent of
66 the Legislature to ensure public confidence in the integrity of
67 fantasy sports contests and contest operators. This act is
68 designed to regulate the contest operators and individuals who
69 participate in such contests and to enact consumer protections
70 related to fantasy sports contests. Furthermore, the Legislature
71 finds that fantasy sports contests, as that term is defined in
72 s. 546.13, involve the skill of contest participants.

73 Section 3. Section 546.13, Florida Statutes, is created to
74 read:

75 546.13 Definitions.—As used in ss. 546.11-546.18, the term:

76 (1) “Act” means ss. 546.11-546.18.

77 (2) “Confidential information” means information related to
78 the playing of fantasy sports contests by contest participants
79 which is obtained solely as a result of a person’s employment
80 with, or work as an agent of, a contest operator.

81 (3) “Contest operator” means a person or entity that offers
82 fantasy sports contests for a cash prize to members of the
83 public, but does not include a noncommercial contest operator in
84 this state.

85 (4) “Contest participant” means a person who pays an entry
86 fee for the ability to participate in a fantasy or simulation
87 sports game or contest offered by a contest operator or

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88 noncommercial contest operator.

89 (5) "Entry fee" means the cash or cash equivalent amount
90 that is required to be paid by a person to a contest operator or
91 noncommercial contest operator to participate in a fantasy
92 sports contest.

93 (6) "Fantasy sports contest" means a fantasy or simulation
94 sports game or contest offered by a contest operator or a
95 noncommercial contest operator in which a contest participant
96 manages a fantasy or simulation sports team composed of athletes
97 from a professional sports organization and which meets each of
98 the following requirements:

99 (a) All prizes and awards offered to winning contest
100 participants are established and made known to the contest
101 participants in advance of the game or contest and their value
102 is not determined by the number of contest participants or the
103 amount of any fees paid by those contest participants.

104 (b) All winning outcomes reflect the relative knowledge and
105 skill of the contest participants and are determined
106 predominantly by accumulated statistical results of the
107 performance of individuals, including athletes in the case of
108 sporting events.

109 (c) No winning outcome is based on the score, point spread,
110 or any performance or performances of any single actual team or
111 combination of such teams; solely on any single performance of
112 an individual athlete or player in a single actual event; on a
113 pari-mutuel event, as the term "pari-mutuel" is defined in s.
114 550.002; on a game of poker or other card game; or on the
115 performances of participants in collegiate, high school, or
116 youth sporting events.

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117 (d) No casino graphics, themes, or titles, including, but
118 not limited to, depictions of slot machine-style symbols, cards,
119 dice, craps, roulette, or lotto, are displayed or depicted.

120 (7) "Noncommercial contest operator" means a natural person
121 who organizes and conducts a fantasy or simulation sports
122 contest in which contest participants are charged entry fees for
123 the right to participate; entry fees are collected, maintained,
124 and distributed by the same natural person; the total entry fees
125 collected, maintained, and distributed by such natural person do
126 not exceed \$1,500 per season or a total of \$10,000 per calendar
127 year; and all entry fees are returned to the contest
128 participants in the form of prizes.

129 Section 4. Section 546.14, Florida Statutes, is created to
130 read:

131 546.14 Enforcement and administration; rulemaking.—

132 (1) The division shall enforce and administer this act.

133 (2) The division may:

134 (a) Conduct investigations and monitor the operation and
135 play of fantasy sports contests.

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

138 (c) Deny, suspend, or revoke any license under this act for
139 any violation of state law or rule.

140 (d) Take testimony, issue summons and subpoenas for any
141 witness, and issue subpoenas duces tecum in connection with any
142 matter within its jurisdiction.

143 (e) Monitor and ensure the proper collection and
144 safeguarding of entry fees and the payment of contest prizes in
145 accordance with consumer protection procedures enacted pursuant

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146 to s. 546.16.

147 (f) Investigate any licensed or unlicensed person or entity
148 when such person or entity is advertising as offering or
149 providing, or is engaged in conducting, a fantasy sports contest
150 that requires licensure under this act or when a contest
151 operator or noncommercial contest operator is engaged in
152 activities that do not comply with or are prohibited by this
153 act. The division shall have the authority to issue an order to
154 such licensed or unlicensed person or entity or contest operator
155 or noncommercial contest operator to cease and desist the
156 further conduct of such activities, to seek an injunction, or to
157 take other appropriate action to enforce the requirements of
158 this act.

159 (3) The division shall adopt rules to implement and
160 administer this act. Such rules may not conflict with, and must
161 be applied, construed, and interpreted in a manner consistent
162 with, the gaming compact ratified, approved, and described in s.
163 285.710(3).

164 Section 5. Section 546.15, Florida Statutes, is created to
165 read:

166 546.15 Licensing.-

167 (1) A contest operator must be licensed by the division to
168 conduct fantasy sports contests within this state.

169 (2) The application must include:

170 (a) The full name of the applicant.

171 (b) If the applicant is a corporation, the name of the
172 state in which the applicant is incorporated and the names and
173 addresses of the officers, directors, and shareholders who hold
174 15 percent or more equity.

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175 (c) If the applicant is a business entity other than a
176 corporation, the names and addresses of each principal, partner,
177 or shareholder who holds 15 percent or more equity.

178 (d) The names and addresses of the ultimate equitable
179 owners of the corporation or other business entity, if different
180 from those provided under paragraph (b) or paragraph (c), unless
181 the securities of the corporation or entity are registered
182 pursuant to s. 12 of the Securities Exchange Act of 1934, 15
183 U.S.C. ss. 78a-78kk, and:

184 1. The corporation or entity files with the United States
185 Securities and Exchange Commission the reports required by s. 13
186 of that act; or

187 2. The securities of the corporation or entity are
188 regularly traded on an established securities market in the
189 United States.

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

192 (f) A statement of the assets and liabilities of the
193 applicant.

194 (g) If required by the division, the names and addresses of
195 the officers and directors of any creditor of the applicant and
196 of stockholders who hold more than 10 percent of the stock of
197 the creditor.

198 (h) For each individual listed in the application pursuant
199 to paragraph (a), paragraph (b), paragraph (c), or paragraph
200 (d), a full set of fingerprints to be submitted to the division
201 or to a vendor, entity, or agency authorized by s. 943.053(13).

202 1. The division, vendor, entity, or agency shall forward
203 the fingerprints to the Department of Law Enforcement for state

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204 processing, and the Department of Law Enforcement shall forward
205 the fingerprints to the Federal Bureau of Investigation for
206 national processing.

207 2. Fingerprints submitted to the Department of Law
208 Enforcement pursuant to this paragraph shall be retained by the
209 Department of Law Enforcement as provided in s. 943.05(2)(g) and
210 (h) and, when the Department of Law Enforcement begins
211 participation in the program, shall be enrolled in the Federal
212 Bureau of Investigation's national retained print arrest
213 notification program. Any arrest record identified shall be
214 reported to the division by the Department of Law Enforcement.

215 (i) For each foreign national, such documents as necessary
216 to allow the division to conduct criminal history records checks
217 in the individual's home country. The applicant must pay the
218 full cost of processing fingerprints and required documentation.

219 (3) A person or entity is not eligible for licensure as a
220 contest operator or for licensure renewal if an individual
221 required to be listed pursuant to paragraph (2)(a), paragraph
222 (2)(b), paragraph (2)(c), or paragraph (2)(d) is determined by
223 the division, after investigation, not to be of good moral
224 character or is found to have been convicted of a felony in this
225 state, any offense in another jurisdiction which would be
226 considered a felony if committed in this state, or a felony
227 under the laws of the United States. As used in this subsection,
228 the term "convicted" means having been found guilty, with or
229 without adjudication of guilt, as a result of a jury verdict,
230 nonjury trial, or entry of a plea of guilty or nolo contendere.

231 (4) The license of a contest operator is automatically
232 suspended upon entry of a final order imposing an administrative

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233 fine against the contest operator, until the administrative fine
234 is paid, if 30 calendar days have elapsed since the entry of the
235 final order. The license of a contest operator may not be
236 renewed and an application for licensure as a contest operator
237 may not be approved if the contest operator or the applicant for
238 licensure as a contest operator is liable for an outstanding
239 administrative fine imposed under this act. Notwithstanding the
240 provisions of this subsection, a contest operator's license may
241 not be suspended and an application for licensure as a contest
242 operator may not be denied if the contest operator or the
243 applicant has an appeal from a final order pending in any
244 appellate court.

245 Section 6. Section 546.16, Florida Statutes, is created to
246 read:

247 546.16 Consumer protection.-

248 (1) A contest operator must implement procedures for
249 fantasy sports contests which:

250 (a) Prevent its employees, their relatives, or persons
251 living in the same household as the employees from competing in
252 a fantasy sports contest in which a cash prize is awarded. For
253 the purposes of this paragraph, the term "relative" means a
254 spouse, father, mother, son, daughter, grandfather, grandmother,
255 brother, sister, uncle, aunt, cousin, nephew, niece, father-in-
256 law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
257 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
258 stepbrother, stepsister, half-brother, or half-sister.

259 (b) Prohibit the contest operator from being a contest
260 participant in a fantasy sports contest that he or she offers.

261 (c) Prevent its employees or agents from sharing with a

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262 third party confidential information that could affect fantasy
263 sports contest play, until the information has been made
264 publicly available.

265 (d) Verify that contest participants are 21 years of age or
266 older.

267 (e) Restrict an individual who is a player, a game
268 official, or another participant in a real-world game or
269 competition from participating in a fantasy sports contest that
270 is determined, in whole or in part, on the performance of that
271 individual, the individual's real-world team, or the accumulated
272 statistical results of the sport or competition in which he or
273 she is a player, game official, or other participant.

274 (f) Allow individuals to restrict or prevent their own
275 access to fantasy sports contests and take reasonable steps to
276 prevent those individuals from entering a fantasy sports
277 contest.

278 (g) Limit the number of entries a single contest
279 participant may submit to each fantasy sports contest and take
280 reasonable steps to prevent participants from submitting more
281 than the allowable number of entries.

282 (h) Segregate contest participants' funds from operational
283 funds or maintain a reserve in the form of cash, cash
284 equivalents, payment processor reserves, payment processor
285 receivables, an irrevocable letter of credit, a bond, or a
286 combination thereof in the total amount of deposits in contest
287 participants' accounts for the benefit and protection of
288 authorized contest participants' funds held in fantasy sports
289 contest accounts.

290 (2) (a) A contest operator must annually contract with a

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291 third party to perform an independent audit, consistent with the
292 standards established by the American Institute of Certified
293 Public Accountants, to ensure compliance with this act. The
294 contest operator shall submit the results of the independent
295 audit to the division no later than 90 days after the end of
296 each annual licensing period.

297 (b) A contest operator must use only statistics, results,
298 outcomes, and other data relating to a professional sporting
299 event which have been obtained from the relevant sports
300 governing body or an entity expressly authorized by the sports
301 governing body to provide such information to contest operators.

302 Section 7. Section 546.17, Florida Statutes, is created to
303 read:

304 546.17 Records and reports.—Each contest operator shall
305 keep and maintain daily records of its operations and shall
306 maintain such records for at least 3 years. The records must
307 sufficiently detail all financial transactions required to
308 determine compliance with the requirements of this act and must
309 be available for audit and inspection by the division or other
310 law enforcement agencies during the contest operator's regular
311 business hours. The division shall adopt rules to implement this
312 section.

313 Section 8. Section 546.18, Florida Statutes, is created to
314 read:

315 546.18 Penalties; applicability; exemption.—

316 (1) (a) A contest operator, or an employee or agent thereof,
317 who violates this act is subject to an administrative fine, not
318 to exceed \$5,000 for each violation and not to exceed \$100,000
319 in the aggregate. All fines imposed and collected under this

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320 subsection must be deposited with the Chief Financial Officer to
321 the credit of the General Revenue Fund. An action to recover
322 such penalties may be brought by the division or the Department
323 of Legal Affairs in the name and on behalf of the state.

324 (b) The penalty provisions established in this subsection
325 do not apply to violations committed by a contest operator which
326 occurred prior to the issuance of a license under this act if
327 the contest operator applies for a license within 90 days after
328 July 1, 2023, and receives a license within 240 days after July
329 1, 2023.

330 (2) Fantasy sports contests conducted by a contest operator
331 or noncommercial contest operator in accordance with this act
332 are not subject to s. 849.01, s. 849.08, s. 849.09, s. 849.11,
333 s. 849.14, or s. 849.25.

334 Section 9. If SB 4A, 2021 Special Session A, becomes a law,
335 paragraph (b) of subsection (3) of section 16.71, Florida
336 Statutes, as created by SB 4A, 2021 Special Session A, is
337 amended to read:

338 16.71 Florida Gaming Control Commission; creation;
339 meetings; membership.—

340 (3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.—

341 (b) The Governor may not solicit or request any
342 nominations, recommendations, or communications about potential
343 candidates for appointment to the commission from:

344 1. Any person that holds a permit or license issued under
345 chapter 550, or a license issued under chapter 546, chapter 551,
346 or chapter 849; an officer, official, or employee of such
347 permitholder or licensee; or an ultimate equitable owner, as
348 defined in s. 550.002(37), of such permitholder or licensee;

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349 2. Any officer, official, employee, or other person with
350 duties or responsibilities relating to a gaming operation owned
351 by an Indian tribe that has a valid and active compact with the
352 state; a contractor or subcontractor of such tribe or an entity
353 employed, licensed, or contracted by such tribe; or an ultimate
354 equitable owner, as defined in s. 550.002(37), of such entity;
355 or

356 3. Any registered lobbyist for the executive or legislative
357 branch who represents any person or entity identified in
358 subparagraph 1. or subparagraph 2.

359 Section 10. If SB 4A, 2021 Special Session A, becomes a
360 law, paragraph (i) of subsection (1) of section 16.712, Florida
361 Statutes, as created by SB 4A, 2021 Special Session A, is
362 amended to read:

363 16.712 Florida Gaming Control Commission authorizations,
364 duties, and responsibilities.—

365 (1) The commission shall do all of the following:

366 (i) Receive and review violations reported by a state or
367 local law enforcement agency, the Department of Law Enforcement,
368 the Department of Legal Affairs, the Department of Agriculture
369 and Consumer Services, the Department of Business and
370 Professional Regulation, the Department of the Lottery, the
371 Seminole Tribe of Florida, or any person licensed under chapter
372 24, part II of chapter 285, chapter 546, chapter 550, chapter
373 551, or chapter 849 and determine whether such violation is
374 appropriate for referral to the Office of Statewide Prosecution.

375 Section 11. If SB 4A, 2021 Special Session A, becomes a
376 law, paragraph (d) of subsection (1) and paragraph (a) of
377 subsection (2) of section 16.713, Florida Statutes, as created

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378 by SB 4A, 2021 Special Session A, are amended to read:

379 16.713 Florida Gaming Control Commission; appointment and
380 employment restrictions.—

381 (1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.—
382 All of the following people are ineligible for appointment to
383 the commission:

384 (d) A person who has had a license or permit issued under
385 chapter 546, chapter 550, chapter 551, or chapter 849 or a
386 gaming license issued by any other jurisdiction denied,
387 suspended, or revoked.

388 (2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS
389 INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE
390 COMMISSION.—

391 (a) A person may not, for the 2 years immediately preceding
392 the date of appointment to or employment with the commission and
393 while appointed to or employed with the commission:

394 1. Hold a permit or license issued under chapter 550 or a
395 license issued under chapter 546, chapter 551, or chapter 849;
396 be an officer, official, or employee of such permitholder or
397 licensee; or be an ultimate equitable owner, as defined in s.
398 550.002(37), of such permitholder or licensee;

399 2. Be an officer, official, employee, or other person with
400 duties or responsibilities relating to a gaming operation owned
401 by an Indian tribe that has a valid and active compact with the
402 state; be a contractor or subcontractor of such tribe or an
403 entity employed, licensed, or contracted by such tribe; or be an
404 ultimate equitable owner, as defined in s. 550.002(37), of such
405 entity;

406 3. Be or have been a member of the Legislature;

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407 4. Be a registered lobbyist for the executive or
408 legislative branch, except while a commissioner when officially
409 representing the commission; or

410 5. Be a bingo game operator or an employee of a bingo game
411 operator.

412 Section 12. If SB 4A, 2021 Special Session A, becomes a
413 law, paragraphs (b) and (c) of subsection (2) of section 16.715,
414 Florida Statutes, as created by SB 4A, 2021 Special Session A,
415 are amended to read:

416 16.715 Florida Gaming Control Commission standards of
417 conduct; ex parte communications.—

418 (2) FORMER COMMISSIONERS AND EMPLOYEES.—

419 (b) A commissioner may not, for the 2 years immediately
420 following the date of resignation or termination from the
421 commission:

422 1. Hold a permit or license issued under chapter 550, or a
423 license issued under chapter 546, chapter 551, or chapter 849;
424 be an officer, official, or employee of such permitholder or
425 licensee; or be an ultimate equitable owner, as defined in s.
426 550.002(37), of such permitholder or licensee;

427 2. Accept employment by or compensation from a business
428 entity that, directly or indirectly, owns or controls a person
429 regulated by the commission; from a person regulated by the
430 commission; from a business entity which, directly or
431 indirectly, is an affiliate or subsidiary of a person regulated
432 by the commission; or from a business entity or trade
433 association that has been a party to a commission proceeding
434 within the 2 years preceding the member's resignation or
435 termination of service on the commission; or

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436 3. Be a bingo game operator or an employee of a bingo game
437 operator.

438 (c) A person employed by the commission may not, for the 2
439 years immediately following the date of termination or
440 resignation from employment with the commission:

441 1. Hold a permit or license issued under chapter 550, or a
442 license issued under chapter 546, chapter 551, or chapter 849;
443 be an officer, official, or employee of such permitholder or
444 licensee; or be an ultimate equitable owner, as defined in s.
445 550.002(37), of such permitholder or licensee; or

446 2. Be a bingo game operator or an employee of a bingo game
447 operator.

448 Section 13. Section 849.144, Florida Statutes, is created
449 to read:

450 849.144 Fantasy sports contest exemptions.—Sections 849.01,
451 849.08, 849.09, 849.11, 849.14, and 849.25 do not apply to
452 participation in or the conduct of fantasy sports contests
453 conducted pursuant to chapter 546.

454 Section 14. If SB 4A, 2021 Special Session A, becomes a
455 law, subsection (1) of section 11 of SB 4A, 2021 Special Session
456 A, is amended to read:

457 (1) Effective July 1, 2022, all powers, duties, functions,
458 records, offices, personnel, associated administrative support
459 positions, property, pending issues, existing contracts,
460 administrative authority, administrative rules, and unexpended
461 balances of appropriations, allocations, and other funds in the
462 Department of Business and Professional Regulation related to
463 the oversight responsibilities by the state compliance agency
464 for authorized gaming compacts under s. 285.710, Florida

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465 Statutes, the regulation of fantasy sports contests under
466 chapter 546, Florida Statutes, the regulation of pari-mutuel
467 wagering under chapter 550, Florida Statutes, the regulation of
468 slot machines and slot machine gaming under chapter 551, Florida
469 Statutes, and the regulation of cardrooms under s. 849.086,
470 Florida Statutes, are transferred by a type two transfer, as
471 defined in s. 20.06(2), Florida Statutes, to the Florida Gaming
472 Control Commission within the Department of Legal Affairs,
473 Office of the Attorney General.

474 Section 15. This act shall take effect on the same date
475 that SB 2A or similar legislation takes effect, if such
476 legislation is adopted in the same legislative session or an
477 extension thereof and becomes a law.