

1 HB361
2 198718-2
3 By Representatives South, Clouse, Blackshear, Daniels,
4 England, Rowe, McCutcheon and Rogers
5 RFD: Economic Development and Tourism
6 First Read: 04-APR-19

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8 SYNOPSIS: Under existing law, there are no regulations
9 relating to fantasy sports.

10 This bill would establish the Fantasy
11 Contests Act. This bill would provide for the
12 registration of certain fantasy sports operators
13 conducting fantasy sports contests within the
14 state. This bill would require the implementation
15 of procedures for consumer protection of fantasy
16 contest players. This bill would also exempt
17 fantasy contests from the state prohibition against
18 gambling.

19 Amendment 621 of the Constitution of Alabama
20 of 1901, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of
22 Alabama of 1901, as amended, prohibits a general
23 law whose purpose or effect would be to require a
24 new or increased expenditure of local funds from
25 becoming effective with regard to a local
26 governmental entity without enactment by a 2/3 vote
27 unless: it comes within one of a number of

1 specified exceptions; it is approved by the
2 affected entity; or the Legislature appropriates
3 funds, or provides a local source of revenue, to
4 the entity for the purpose.

5 The purpose or effect of this bill would be
6 to require a new or increased expenditure of local
7 funds within the meaning of the amendment. However,
8 the bill does not require approval of a local
9 governmental entity or enactment by a 2/3 vote to
10 become effective because it comes within one of the
11 specified exceptions contained in the amendment.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 Relating to regulating fantasy contests; to
18 establish the Fantasy Contests Act; to provide definitions of
19 certain terms; to require registration of certain fantasy
20 contest operators; to require certain fantasy contest
21 operators to implement procedures for consumer protection of
22 fantasy contest players; to exempt fantasy contests from the
23 prohibition against gambling; and in connection therewith
24 would have as its purpose or effect the requirement of a new
25 or increased expenditure of local funds within the meaning of
26 Amendment 621 of the Constitution of Alabama of 1901, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited
5 as the Fantasy Contests Act.

6 Section 2. For the purposes of this act, the
7 following terms shall have the following meanings:

8 (1) CONFIDENTIAL INFORMATION. Information related to
9 the play of a fantasy contest by fantasy contest players
10 obtained as a result of, or by virtue of, a person's
11 employment.

12 (2) ENTRY FEE. Cash or cash equivalent that is
13 required to be paid by a fantasy contest player to a fantasy
14 contest operator in order to participate in a fantasy contest.

15 (3) FANTASY CONTEST. Any fantasy or simulated game
16 or contest in which one or more fantasy contest players
17 compete and winning outcomes reflect the relative knowledge
18 and skill of the fantasy contest players and are determined
19 predominantly by accumulated statistical results of the
20 performance of individuals, including athletes in the case of
21 sporting events.

22 (4) FANTASY CONTEST OPERATOR. A person or entity
23 that offers fantasy contests with an entry fee for a cash
24 prize to the general public.

25 (5) FANTASY CONTEST PLAYER. A person who
26 participates in a fantasy contest offered by a fantasy contest
27 operator.

1 (6) GROSS FANTASY CONTEST REVENUES. The amount equal
2 to the total of all entry fees that a fantasy contest operator
3 collects from all fantasy contest players, less the total of
4 all sums paid out as winning to all fantasy contest players
5 multiplied by the location percentage for Alabama.

6 (7) LOCATION PERCENTAGE. The percentage, rounded to
7 the nearest tenth of a percent, of the total of all entry fees
8 collected from fantasy contest players located in Alabama,
9 divided by the total entry fees collected from all fantasy
10 contest players in fantasy contests.

11 (8) NATIONAL GROSS FANTASY CONTEST REVENUES. The
12 amount equal to the total of all entry fees that a fantasy
13 contest operator collects from all fantasy contest players
14 located in the United States, less the total of all sums paid
15 out as winnings to all fantasy contest players.

16 (9) REGULATOR. The Office of the Attorney General.

17 Section 3. (a) (1) No fantasy contest operator shall
18 offer any fantasy contest with an entry fee in this state
19 without first being registered with the Office of the Attorney
20 General. Applications for registration and renewal shall be
21 under oath, in the form prescribed by the Attorney General.
22 The Office of the Attorney General shall make applications for
23 operators available within 180 days of the effective date of
24 this act.

25 (2) A fantasy contest operator that offered fantasy
26 contests in this state prior to May 1, 2016, may operate
27 fantasy contests in this state upon the effective date of this

1 act, provided the operator files an application for
2 registration with the Office of the Attorney General within 60
3 days of availability of the application.

4 (b) The Office of the Attorney General may not adopt
5 rules limiting or regulating the rules or administration of an
6 individual fantasy contest, the statistical makeup of a
7 fantasy contest, or the digital platform of a fantasy contest
8 operator.

9 (c) At the time of initial registration to offer
10 fantasy contests with an entry fee in this state, a fantasy
11 contest operator shall pay to the Office of the Attorney
12 General an initial registration fee as follows:

13 (1) A fantasy contest operator that has national
14 gross fantasy contest revenues in excess of ten million
15 dollars (\$10,000,000) shall pay an initial registration fee of
16 eighty-five thousand dollars (\$85,000). A fantasy contest
17 operator registered under this subdivision shall pay to the
18 Office of the Attorney General an annual registration renewal
19 fee of eighty-five thousand dollars (\$85,000).

20 (2) All other fantasy contest operators shall pay an
21 initial registration fee of one thousand dollars (\$1,000). A
22 fantasy contest operator registered under this subdivision
23 shall pay to the Office of the Attorney General an annual
24 registration renewal fee of one thousand dollars (\$1,000).

25 (d) On the anniversary date of the fantasy contest
26 operator's registration, the fantasy contest operator shall
27 annually pay a tax equal to six percent of the fantasy contest

1 operator's gross fantasy contest revenues from the immediately
2 preceding 12-month period. The revenues shall be deposited to
3 the credit of the State General Fund.

4 (e) Any operator applying for registration, renewal,
5 or transfer of a registration may operate during the
6 application period unless the Office of the Attorney General
7 has reasonable cause to believe that the operator is or may be
8 in violation of this act, and the Office of the Attorney
9 General requires the operator to suspend the operation of any
10 fantasy contest until registration, transfer, or renewal of
11 registration is approved.

12 Section 4. A fantasy contest operator who operates
13 fantasy contests with an entry fee shall implement
14 commercially reasonable procedures that are intended to
15 accomplish all of the following:

16 (1) Prevent the fantasy contest operator, employees
17 of the fantasy contest operator, and relatives living in the
18 same household as the employees, from competing in any public
19 fantasy contest offered by any fantasy contest operator in
20 which the operator offers a cash prize to the general public.

21 (2) Prevent sharing of confidential information that
22 could affect fantasy contest play with third parties until
23 information is made publicly available.

24 (3) Verify that a fantasy contest player in a
25 fantasy contest is 19 years of age or older.

1 (4) Prevent the fantasy contest operator from
2 offering contests based on the performances of participants in
3 high school or youth athletic events.

4 (5) Prevent the fantasy contest operator from
5 offering a fantasy contest open to the general public that
6 does not establish and make known all prizes and awards
7 offered to winning participants in advance of the game or
8 contest.

9 (6) Provide that no winning outcome is based on the
10 score, point spread, or any performance of any single actual
11 sports team or combination of teams or solely on any single
12 performance of an individual athlete or participant in any
13 single actual event.

14 (7) Ensure that an individual who is a player in a
15 real-world game or sporting event is restricted from
16 participating in a fantasy contest that is determined, in
17 whole or in part, on the accumulated statistical results of
18 that player, the player's real-world team, or the sport of
19 competition for which he or she is a player.

20 (8) Allow individuals to restrict themselves from
21 entering a fantasy contest upon request and provide reasonable
22 steps to prevent the person from entering fantasy contests
23 offered by the fantasy contest operator.

24 (9) Disclose the number of entries that a fantasy
25 contest player may submit to each fantasy contest and provide
26 reasonable steps to prevent players from submitting more than
27 the allowable number.

1 (10) Segregate fantasy contest player funds from
2 operational funds or maintain a reserve that equals or exceeds
3 the amount of player funds on deposit, which reserve may not
4 be used for operational activities. These reserve funds may
5 take the form of cash, cash equivalents, an irrevocable letter
6 of credit, a bond, payment processor reserves and receivables,
7 or a combination thereof, in the amount that shall exceed the
8 total balances of the fantasy contest players' accounts.

9 (11) A fantasy contest operator offering fantasy
10 contests with an entry fee in this state shall contract with a
11 third party to annually perform an independent audit,
12 consistent with the standards established by the American
13 Institute of Certified Public Accountants, to ensure
14 compliance with this act and shall submit the results of the
15 audit to the Office of the Attorney General within 270 days of
16 the end of the operator's fiscal year.

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

20 Section 5. A violation of this act is a deceptive
21 trade practice under the Deceptive Trade Practices Act,
22 Chapter 19 of Title 8, Code of Alabama 1975.

23 Section 6. The provisions of this act shall be
24 construed liberally to promote the general welfare of the
25 public and integrity of the fantasy sports industry.

26 Section 7. The Office of the Attorney General may
27 adopt rules to implement and administer this act.

1 Section 8. Article 2 of Chapter 12 of Title 13A,
2 Code of Alabama 1975, does not apply to a fantasy contest.

3 Section 9. A fantasy contest offered pursuant to
4 this act does not constitute a lottery or gift enterprise
5 pursuant to Section 65 of the Official Recompilation of the
6 Constitution of Alabama of 1901, as amended.

7 Section 10. Nothing in this act shall be construed
8 to alter the existing authority of the state or any state
9 official with respect to any matter other than fantasy
10 contests as defined in this act.

11 Section 11. Although this bill would have as its
12 purpose or effect the requirement of a new or increased
13 expenditure of local funds, the bill is excluded from further
14 requirements and application under Amendment 621, now
15 appearing as Section 111.05 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended, because the
17 bill defines a new crime or amends the definition of an
18 existing crime.

19 Section 12. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.