

1 A bill to be entitled
2 An act relating to fantasy sports contests; creating
3 s. 849.51, F.S.; providing a short title; creating s.
4 849.52, F.S.; providing legislative intent; creating
5 s. 849.53, F.S.; defining terms; creating s. 849.54,
6 F.S.; providing for the enforcement and administration
7 of the act; authorizing the Division of Pari-mutuel
8 Wagering within the Department of Business and
9 Professional Regulation to take certain actions;
10 requiring the division to adopt rules; creating s.
11 849.55, F.S.; providing application requirements for
12 fantasy sports contest operator licenses; providing
13 that specified persons or entities are not eligible
14 for licensure under certain circumstances; defining
15 the term "convicted"; specifying that a contest
16 operator license is automatically suspended under
17 certain circumstances; providing an exception;
18 creating s. 849.56, F.S.; requiring a contest operator
19 to implement specified consumer protection procedures
20 under certain circumstances; defining the term
21 "relative"; requiring a contest operator to contract
22 with a third party to perform an annual independent
23 audit; requiring a contest operator to submit the
24 audit results to the division within a certain
25 timeframe; requiring a contest operator to use only

26 specified statistics, results, outcomes, and other
 27 data relating to a professional sporting event;
 28 creating s. 849.57, F.S.; requiring contest operators
 29 to keep and maintain certain records for a specified
 30 period; providing a requirement for such records;
 31 requiring that such records be available for audit and
 32 inspection; requiring the division to adopt rules;
 33 creating s. 849.58, F.S.; providing a civil penalty;
 34 providing applicability; exempting fantasy contests
 35 from certain provisions; including the regulation of
 36 fantasy sports contests in a type two transfer
 37 occurring on a certain date; providing an effective
 38 date.

39
 40 Be It Enacted by the Legislature of the State of Florida:

41
 42 Section 1. Section 849.51, Florida Statutes, is created to
 43 read:

44 849.51 Short title.—Sections 849.51–849.58 may be cited as
 45 the "Fantasy Sports Contest Act."

46 Section 2. Section 849.52, Florida Statutes, is created to
 47 read:

48 849.52 Legislative intent.—It is the intent of the
 49 Legislature to ensure public confidence in the integrity of
 50 fantasy sports contests and contest operators. This act is

51 designed to regulate the contest operators and individuals who
52 participate in such contests and to enact consumer protections
53 related to fantasy sports contests.

54 Section 3. Section 849.53, Florida Statutes, is created to
55 read:

56 849.53 Definitions.—As used in ss. 849.51-849.58, the
57 term:

58 (1) "Act" means ss. 849.51-849.58.

59 (2) "Confidential information" means information related
60 to the playing of fantasy sports contests by contest
61 participants which a person obtains solely as a result of the
62 person's employment with, or work as an agent of, a contest
63 operator.

64 (3) "Contest operator" means a person or entity that
65 offers fantasy sports contests for a cash prize to members of
66 the public, but does not include a noncommercial contest
67 operator in this state.

68 (4) "Contest participant" means a person who pays an entry
69 fee for the ability to participate in a fantasy sports contest
70 offered by a contest operator or noncommercial contest operator.

71 (5) "Division" means the Division of Pari-mutuel Wagering
72 of the Department of Business and Professional Regulation.

73 (6) "Entry fee" means the cash or cash equivalent amount
74 that is required to be paid by a person to a contest operator or
75 noncommercial contest operator to participate in a fantasy

76 sports contest.

77 (7) "Fantasy sports contest" means a fantasy or simulation
78 sports game or contest offered by a contest operator or a
79 noncommercial contest operator in which a contest participant
80 manages a fantasy or simulation sports team composed of athletes
81 from a professional sports organization and which meets each of
82 the following requirements:

83 (a) All prizes and awards offered to winning contest
84 participants are established and made known to the contest
85 participants in advance of the game or contest and their value
86 is not determined by the number of contest participants or the
87 amount of any fees paid by those contest participants.

88 (b) All winning outcomes reflect the relative knowledge
89 and skill of the contest participants and are determined
90 exclusively by accumulated statistical results of the
91 performance of athletes.

92 (c) No winning outcome is based on the score, point
93 spread, or any performance or performances of any single actual
94 team or combination of such teams.

95 (d) Any winning outcome must be based on:

96 1. The performance of at least 7 individual athletes who
97 play in at least 5 separate actual team events; or

98 2. The performance of at least 5 players in individual
99 athlete sports.

100 (e) No winning outcome is based on a pari-mutuel event, as

101 the term "pari-mutuel" is defined in s. 550.002.

102 (f) No winning outcome is based on a game of poker or
103 other card game.

104 (g) No winning outcome is based on the performances of
105 participants in amateur, collegiate, high school, or youth
106 sporting events.

107 (h) No casino graphics, themes, or titles, including, but
108 not limited to, depictions of slot machine-style symbols, cards,
109 dice, craps, roulette, or lotto, are displayed or depicted.

110 (8) "Noncommercial contest operator" means a natural
111 person who organizes and conducts a fantasy sports contest in
112 which contest participants are charged entry fees for the right
113 to participate; entry fees are collected, maintained, and
114 distributed by the same natural person; the total entry fees
115 collected, maintained, and distributed by such natural person do
116 not exceed \$1,500 per season and a total of \$10,000 per calendar
117 year; and all entry fees are returned to the contest
118 participants in the form of prizes.

119 Section 4. Section 849.54, Florida Statutes, is created to
120 read:

121 849.54 Enforcement and administration; rulemaking.-

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

123 (2) The division may:

124 (a) Conduct investigations and monitor the operation and
125 play of fantasy sports contests.

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

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

130 (d) Take testimony, issue summons and subpoenas for any
131 witness, and issue subpoenas duces tecum in connection with any
132 matter within its jurisdiction.

133 (e) Monitor and ensure the proper collection and
134 safeguarding of entry fees and the payment of contest prizes in
135 accordance with consumer protection procedures enacted pursuant
136 to s. 849.56.

137 (f) Investigate any licensed or unlicensed person or
138 entity when such person or entity is advertising as offering or
139 providing, or is engaged in conducting, a fantasy sports contest
140 that requires licensure under this act or when a contest
141 operator or noncommercial contest operator is engaged in
142 activities that do not comply with or are prohibited by this
143 act. The division shall have the authority to issue an order to
144 such licensed or unlicensed person or entity or contest operator
145 or noncommercial contest operator to cease and desist the
146 further conduct of such activities, to seek an injunction, or to
147 take other appropriate action to enforce the requirements of
148 this act.

149 (3) The division shall adopt rules to implement and
150 administer this act. Such rules may not conflict with, and must

151 be applied, construed, and interpreted in a manner consistent
152 with, the gaming compact ratified, approved, and described in s.
153 285.710(3).

154 Section 5. Section 849.55, Florida Statutes, is created to
155 read:

156 849.55 Licensing.—

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

159 (2) The application must include:

160 (a) The full name of the applicant.

161 (b) If the applicant is a corporation, the name of the
162 state in which the applicant is incorporated and the names and
163 addresses of each shareholder or other person who holds 15
164 percent or more equity in the corporation and each officer and
165 director.

166 (c) If the applicant is a business entity other than a
167 corporation, the names and addresses of each principal, partner,
168 member, or other person who holds 15 percent or more equity or
169 interest.

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

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

179 2. The securities of the corporation or entity are
180 regularly traded on a national securities exchange registered
181 with the United States Securities and Exchange Commission.

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

184 (f) A statement of the assets and liabilities of the
185 applicant.

186 (g) If required by the division, the names and addresses
187 of the officers and directors of any creditor of the applicant
188 and of stockholders who hold more than 10 percent of the stock
189 of the creditor.

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

194 1. The division, vendor, entity, or agency shall forward
195 the fingerprints to the Department of Law Enforcement for state
196 processing, and the Department of Law Enforcement shall forward
197 the fingerprints to the Federal Bureau of Investigation for
198 national processing.

199 2. Fingerprints submitted to the Department of Law
200 Enforcement pursuant to this paragraph shall be retained by the

201 Department of Law Enforcement as provided in s. 943.05(2)(g) and
202 (h) and, when the Department of Law Enforcement begins
203 participation in the program, shall be enrolled in the Federal
204 Bureau of Investigation's national retained print arrest
205 notification program. Any arrest record identified shall be
206 reported to the division by the Department of Law Enforcement.

207 (i) For each foreign national, such documents as necessary
208 to allow the division to conduct criminal history records
209 checks.

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

222 (4) The license of a contest operator is automatically
223 suspended upon entry of a final order imposing an administrative
224 fine against the contest operator, until the administrative fine
225 is paid, if 30 calendar days have elapsed since the entry of the

226 final order. The license of a contest operator may not be
227 renewed and an application for licensure as a contest operator
228 may not be approved if the contest operator or the applicant for
229 licensure as a contest operator is liable for an outstanding
230 administrative fine imposed under this act. Notwithstanding the
231 provisions of this subsection, a contest operator's license may
232 not be suspended and an application for licensure as a contest
233 operator may not be denied if the contest operator or the
234 applicant has an appeal from a final order pending in any
235 appellate court.

236 Section 6. Section 849.56, Florida Statutes, is created to
237 read:

238 849.56 Consumer protection.—

239 (1) A contest operator must implement procedures for
240 fantasy sports contests which:

241 (a) Prevent its employees, their relatives, or persons
242 living in the same household as the employees from competing in
243 a fantasy sports contest in which a cash prize is awarded. For
244 the purposes of this paragraph, the term "relative" means a
245 spouse, father, mother, son, daughter, grandfather, grandmother,
246 brother, sister, uncle, aunt, cousin, nephew, niece, father-in-
247 law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
248 sister-in-law, stepfather, stepmother, stepson, stepdaughter,
249 stepbrother, stepsister, half-brother, or half-sister.

250 (b) Prohibit the contest operator from being a contest

251 participant in a fantasy sports contest that it offers.

252 (c) Prevent its employees or agents from sharing with a
253 third party confidential information that could affect fantasy
254 sports contest play, until the information has been made
255 publicly available.

256 (d) Verify that contest participants are 21 years of age
257 or older.

258 (e) Restrict an individual who is an athlete, a game
259 official, or another participant in a real-world game or
260 competition from participating in a fantasy sports contest that
261 is determined, in whole or in part, on the performance of that
262 individual, the individual's real-world team, or the accumulated
263 statistical results of the sport or competition in which he or
264 she is an athlete, a game official, or another participant.

265 (f) Allow individuals to restrict or prevent their own
266 access to fantasy sports contests and take reasonable steps to
267 prevent those individuals from entering a fantasy sports
268 contest.

269 (g) Limit the number of entries a single contest
270 participant may submit to each fantasy sports contest and take
271 reasonable steps to prevent participants from submitting more
272 than the allowable number of entries.

273 (h) Segregate contest participants' funds from operational
274 funds or maintain a reserve in the form of cash, cash
275 equivalents, payment processor reserves, payment processor

276 receivables, an irrevocable letter of credit, a bond, or a
277 combination thereof in the total amount of deposits in contest
278 participants' accounts for the benefit and protection of
279 authorized contest participants' funds held in fantasy sports
280 contest accounts.

281 (i) Prevent the display of advertisements in publications
282 or other media in this state that are aimed exclusively or
283 primarily to persons under 21 years of age and prevent the
284 display of advertisements at events or locations that are
285 primarily attended by persons under 21 years of age.

286 (2) (a) A contest operator must contract with a third party
287 to perform an annual independent audit, consistent with the
288 standards established by the American Institute of Certified
289 Public Accountants, to ensure compliance with this act. The
290 contest operator shall submit the results of the independent
291 audit to the division within 90 days after the end of each
292 annual licensing period.

293 (b) A contest operator may only use statistics, results,
294 outcomes, and other data relating to a professional sporting
295 event which have been obtained from the relevant sport's
296 governing body or an entity expressly authorized by the sport's
297 governing body to provide such information to contest operators.

298 Section 7. Section 849.57, Florida Statutes, is created to
299 read:

300 849.57 Records and reports.—Each contest operator shall

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

309 Section 8. Section 849.58, Florida Statutes, is created to
310 read:

311 849.58 Penalties; applicability; exemption.—

312 (1) (a) A contest operator, or an employee or agent
313 thereof, who violates this act is subject to an administrative
314 fine, not to exceed \$5,000 for each violation and not to exceed
315 \$100,000 in the aggregate. All fines imposed and collected under
316 this subsection must be deposited with the Chief Financial
317 Officer to the credit of the General Revenue Fund. An action to
318 recover such penalties may be brought by the division or the
319 Department of Legal Affairs in the name and on behalf of the
320 state.

321 (b) The penalty provisions established in this subsection
322 do not apply to violations committed by a contest operator which
323 occurred before the issuance of a license under this act if the
324 contest operator applies for a license within 90 days after July
325 1, 2021, and receives a license within 240 days after July 1,

326 2021.

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

331 (3) Any contest in which one or more participants pay a
332 fee or contribute anything of value to a contest in which
333 participants manage a fantasy or simulation sports team must
334 meet the definition and requirements of a fantasy sports contest
335 as defined in s. 849.53.

336 (4) Any person who offers, operates, or conducts any
337 contest in which one or more participants pay a fee or
338 contribute anything of value to a contest in which participants
339 manage a fantasy or simulation sports team must meet the
340 definition and requirements of a contest operator or a
341 noncommercial contest operator as defined in s. 849.53.

342 Section 9. If HB 3A, 2021 Special Session A, becomes a
343 law, subsection (1) of section 11 of HB 3A, 2021 Special Session
344 A, is amended to read:

345 (1) Effective July 1, 2022, all powers, duties, functions,
346 records, offices, personnel, associated administrative support
347 positions, property, pending issues, existing contracts,
348 administrative authority, administrative rules, and unexpended
349 balances of appropriations, allocations, and other funds in the
350 Department of Business and Professional Regulation related to

351 the oversight responsibilities by the state compliance agency
352 for authorized gaming compacts under s. 285.710, Florida
353 Statutes, the regulation of pari-mutuel wagering under chapter
354 550, Florida Statutes, the regulation of slot machines and slot
355 machine gaming under chapter 551, Florida Statutes, the
356 regulation of fantasy sports contests under chapter 849, Florida
357 Statutes, and the regulation of cardrooms under s. 849.086,
358 Florida Statutes, are transferred by a type two transfer, as
359 defined in s. 20.06(2), Florida Statutes, to the Florida Gaming
360 Control Commission within the Department of Legal Affairs,
361 Office of the Attorney General.

362 Section 10. This act shall take effect July 1, 2021.