

The Senate Committee on Regulated Industries and Utilities offered the following substitute to SB 352:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to provide consumer protection requirements for fantasy
3 contest operators; to provide for definitions; to provide for state registration of fantasy
4 contest operators with the Attorney General; to authorize the Attorney General to promulgate
5 rules and regulations; to provide civil and criminal penalties for violations; to amend Article
6 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling
7 and related offenses, so as to exclude fantasy contests from the meaning of a bet, gambling
8 device, and lottery; to provide that the provisions relating to the criminal offenses of
9 gambling and commercial gambling are not applicable to fantasy contests; to provide for
10 related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

12 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
13 trade practices, is amended by adding a new article to read as follows:
14

"ARTICLE 35

15 10-1-930.

16 As used in this article, the term:

- 17 (1) 'Attorney General' means the Attorney General of this state or his or her designee.
18
19 (2) 'Confidential information' means information related to the play of a fantasy contest
20 by fantasy contest players obtained as a result of or by virtue of a person's employment.
21
22 (3) 'Entry fee' means cash or cash equivalent that is required to be paid by a fantasy
23 contest player to a fantasy contest operator to enter a fantasy contest.
24
24 (4) 'Fantasy contest' means a simulated game or challenge that is public or private or
offered for profit or not for profit in which:

25 (A) The value of all prizes and awards offered is established and made known in
26 advance of the game or challenge;

27 (B) All winning outcomes reflect the relative knowledge and skill of those who enter
28 such game or challenge and are determined predominantly by accumulated statistical
29 results of the performance of individuals in sporting events or other competitions; and

30 (C) Winning outcomes are not based on the score, point spread, or any performance
31 of any single actual team or combination of such teams in a sporting event or other
32 competition or solely on any single performance of an individual in any single actual
33 sporting event or other competition.

34 (5) 'Fantasy contest operator' means a person, other than a nonprofit organization exempt
35 from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
36 that conducts any fantasy contest with an entry fee and which has more than 2,000
37 registered users in this state.

38 (6) 'Fantasy contest player' means an individual who enters a fantasy contest offered by
39 a fantasy contest operator.

40 (7) 'Person' means an individual, partnership, corporation, company, association, or any
41 other entity.

42 (8) 'Registered user' means an individual who has opened an account or enrolled with a
43 fantasy contest operator and paid an entry fee.

44 10-1-931.

45 (a) A fantasy contest operator shall implement procedures for fantasy contests that are
46 intended to:

47 (1) Prevent the fantasy contest operator, the officers and employees of the fantasy contest
48 operator, and relatives living in the same household as such officers and employees from
49 entering any public fantasy contests offered by any fantasy contest operator;

50 (2) Prevent the sharing of confidential information that could affect fantasy contest play
51 before such information is made publicly available;

52 (3) Verify that a fantasy contest player is 18 years of age or older;

53 (4) Ensure that individuals who participate, compete, or officiate in a sporting event or
54 other competition that is the subject of a fantasy contest are restricted from entering such
55 fantasy contest;

56 (5) Allow individuals to restrict themselves from entering a fantasy contest upon request
57 and provide reasonable steps to prevent such individuals from entering any fantasy
58 contests offered by the fantasy contest operator;

59 (6) Disclose the number of entries that a fantasy contest player may submit to participate
60 in each fantasy contest and provide reasonable steps to prevent fantasy contest players
61 from submitting more than the allowable number;

62 (7) Segregate fantasy contest player funds from operational funds of the fantasy contest
63 operator and maintain a reserve in the form of cash, cash equivalents, an irrevocable letter
64 of credit, a bond, or a combination thereof, in the amount of the deposits made to the
65 accounts of fantasy contest players for the benefit and protection of the funds held in such
66 accounts; and

67 (8) Verify that all prizes and awards are in fact paid out as advertised or described by the
68 fantasy contest operator.

69 (b) A fantasy contest operator shall contract with a third party to annually perform an
70 independent audit to ensure compliance with this article and submit the results of such
71 audit to the Attorney General.

72 (c)(1) A fantasy contest operator shall register with the Attorney General. The initial
73 registration fee shall be \$50,000.00 and the annual renewal fee shall be \$10,000.00.

74 (2) The registration shall be valid upon receipt of a registration application and payment
75 of the registration fee, except that a renewal registration shall not be valid upon receipt
76 if the Attorney General determines that the fantasy contest operator is not in substantial
77 compliance with this article and the rules and regulations promulgated by the Attorney
78 General.

79 (d) It is the intention of the General Assembly, subject to appropriations, that the fees
80 collected pursuant to subsection (c) of this Code section shall be made available and used
81 exclusively for the Lottery for Education Account.

82 10-1-932.

83 The Attorney General is authorized to promulgate any rules and regulations necessary or
84 convenient to carry out the provisions and purposes of this article. Chapter 13 of Title 50,
85 the 'Georgia Administrative Procedure Act', shall apply to the promulgation of rules and
86 regulations of the Attorney General pursuant to this Code section.

87 10-1-933.

88 (a) Any person who violates this article shall be subject to a civil penalty of not more than
89 \$1,000.00 for each violation, which shall accrue to the state and may be recovered in a civil
90 action brought by the Attorney General.

91 (b) Any violations of this article shall not be considered a violation of or subject the person
92 responsible for such violation to any liability for damages under Part 2 of Article 15 of this
93 chapter, the 'Fair Business Practices Act of 1975.'

94 (c) Any person violating the provisions of this article by acting as a fantasy contest
 95 operator without a valid registration shall be guilty of a misdemeanor.

96 10-1-934.

97 Fantasy contests shall not qualify as or be considered a bet, commercial gambling,
 98 gambling, a gambling device, or a lottery under any provision of law."

99 **SECTION 2.**

100 Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
 101 gambling and related offenses, is amended by revising Code Section 16-12-20, relating to
 102 definitions, as follows:

103 "16-12-20.

104 As used in this part, the term:

105 (1) 'Bet' means an agreement that, dependent upon chance even though accompanied by
 106 some skill, one stands to win or lose something of value. A bet does not include:

107 (A) Contracts of indemnity or guaranty or life, health, property, or accident insurance;

108 or

109 (B) An offer of a prize, award, or compensation to the actual contestants in any bona
 110 fide contest for the determination of skill, speed, strength, or endurance or to the owners
 111 of animals, vehicles, watercraft, or aircraft entered in such contest; or

112 (C) A fantasy contest as such term is defined in Code Section 10-1-930.

113 (2) 'Gambling device' means:

114 (A) Any contrivance which for a consideration affords the player an opportunity to
 115 obtain money or other thing of value, the award of which is determined by chance even
 116 though accompanied by some skill, whether or not the prize is automatically paid by
 117 contrivance;

118 (B) Any slot machine or any simulation or variation thereof;

119 (C) Any matchup or lineup game machine or device, operated for any consideration,
 120 in which two or more numerals, symbols, letters, or icons align in a winning
 121 combination on one or more lines vertically, horizontally, diagonally, or otherwise,
 122 without assistance by the player. Use of skill stops shall not be considered assistance
 123 by the player; or

124 (D) Any video game machine or device, operated for any consideration, for the play
 125 of poker, blackjack, any other card game, or keno or any simulation or variation of any
 126 of the foregoing, including, but not limited to, any game in which numerals, numbers,
 127 or any pictures, representations, or symbols are used as an equivalent or substitute for
 128 cards in the conduct of such game.

129 Any item described in subparagraph (B), (C), or (D) of this paragraph shall be a
 130 prohibited gambling device subject to and prohibited by this part, notwithstanding any
 131 inference to the contrary in any other law of this state. The provisions of this Code
 132 section shall not be applicable to any fantasy contest as defined in Code Section
 133 10-1-930.

134 (3) 'Gambling place' means any real estate, building, room, tent, vehicle, boat, or other
 135 property whatsoever, one of the principal uses of which is the making or settling of bets;
 136 the receiving, holding, recording, or forwarding of bets or offers to bet; or the conducting
 137 of a lottery or the playing of gambling devices.

138 (4) 'Lottery' means any scheme or procedure whereby one or more prizes are distributed
 139 by chance among persons who have paid or promised consideration for a chance to win
 140 such prize, whether such scheme or procedure is called a pool, lottery, raffle, gift, gift
 141 enterprise, sale, policy game, or by some other name. Except as otherwise provided in
 142 Code Section 16-12-35, a lottery shall also include the payment of cash or other
 143 consideration or the payment for merchandise or services and the option to participate in
 144 or play, even if others can participate or play for free, a no skill game or to participate for
 145 cash, other consideration, other evidence of winnings, or other noncash prizes by lot or
 146 in a finite pool on a computer, mechanical device, or electronic device whereby the player
 147 is able to win a cash or noncash prize, other consideration, or other evidence of winnings.
 148 A lottery shall also include the organization of chain letter or pyramid clubs as provided
 149 in Code Section 16-12-38. A lottery shall not mean a:

150 (A) Promotional giveaway or contest which conforms with the qualifications of a
 151 lawful promotion specified in paragraph (16) of subsection (b) of Code Section
 152 10-1-393;

153 (B) Scheme whereby a business gives away prizes to persons selected by lot if such
 154 prizes are made on the following conditions:

155 (i) Such prizes are conducted as advertising and promotional undertakings in good
 156 faith solely for the purpose of advertising the goods, wares, and merchandise of such
 157 business;

158 (ii) No person to be eligible to receive such prize shall be required to:

159 (I) Pay any tangible consideration to the operator of such business in the form of
 160 money or other property or thing of value;

161 (II) Purchase any goods, wares, merchandise, or anything of value from such
 162 business; or

163 (III) Be present or be asked to participate in a seminar, sales presentation, or any
 164 other presentation, by whatever name denominated, in order to win such prizes; and

165 (iii) The prizes awarded shall be noncash prizes and cannot be awarded based upon
 166 the playing of a game on a computer, mechanical device, or electronic device at a
 167 place of business in this state;

168 (C) Raffle authorized under Code Section 16-12-22.1; ~~or~~

169 (D) National or regional promotion, contest, or sweepstakes conducted by any
 170 corporation or wholly owned subsidiary or valid franchise of such corporation, either
 171 directly or through another entity, provided that, at the time of such promotion, contest,
 172 or sweepstakes, such corporation:

173 (i) Is registered under the federal Securities Exchange Act of 1934; and

174 (ii) Has total assets of not less than \$100 million; or

175 (E) A fantasy contest as such term is defined in Code Section 10-1-930.

176 The provisions of this part shall not be applicable to games offered by the Georgia
 177 Lottery Corporation pursuant to Chapter 27 of Title 50."

178 **SECTION 3.**

179 Said article is further amended by adding a new subsection to Code Section 16-12-21,
 180 relating to gambling, to read as follows:

181 "(c) The provisions of this Code section shall not be applicable to any fantasy contest as
 182 defined in Code Section 10-1-930."

183 **SECTION 4.**

184 Said article is further amended by adding a new subsection to Code Section 16-12-22,
 185 relating to commercial gambling, to read as follows:

186 "(c) The provisions of this Code section shall not be applicable to any fantasy contest as
 187 defined in Code Section 10-1-930."

188 **SECTION 5.**

189 All laws and parts of laws in conflict with this Act are repealed.