

1 AN ACT relating to fantasy contests and making an appropriation therefor.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. KRS CHAPTER 239 IS ESTABLISHED AND A NEW
4 SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this chapter unless the context requires otherwise:*

6 *(1) "Gross revenue" means, for each fantasy contest, the amount equal to the total*
7 *of all entry fees that a registrant collects from all participants;*

8 *(2) "Cabinet" means the Public Protection Cabinet;*

9 *(3) "Confidential information" means information related to the play of a fantasy*
10 *contest by fantasy contest participants obtained as a result of or by virtue of a*
11 *person's employment;*

12 *(4) "Entry fee" means the cash or cash equivalent that is required to be paid by a*
13 *fantasy contest participant to a fantasy contest operator in order to participate in*
14 *a paid fantasy contest;*

15 *(5) "Fantasy contest" means any fantasy or simulated game or contest that meets the*
16 *following conditions:*

17 *(a) The values of all prizes and awards offered to winning participants are*
18 *established and made known to the participants in advance of the contest;*

19 *(b) All winning outcomes reflect the relative knowledge and skill of the*
20 *participants and shall be determined predominantly by accumulated*
21 *statistical results of the performance of individuals, including athletes in the*
22 *case of sports events; and*

23 *(c) No winning outcome is based on:*

24 *1. Randomized or historical events;*

25 *2. The score, point spread, or any performance or performances of any*
26 *single actual team or combination of such teams; or*

27 *3. Solely on any single performance of an individual athlete or*

- 1 participant in any single actual event;
- 2 (6) "Fantasy contest operator" means a person or entity that offers a platform for
3 the playing of fantasy contests, administers one (1) or more fantasy contests with
4 an entry fee, and awards a prize of value;
- 5 (7) "Fantasy contest participant" means a person who participates in a fantasy
6 contest offered by a fantasy contest operator;
- 7 (8) "Immediate family" means a person's parents, grandparents, spouse, siblings,
8 children, grandchildren, or any individual residing in a home occupied by the
9 person as a primary residence;
- 10 (9) "Location percentage" means, for each fantasy sports contest, the percentage,
11 rounded to the nearest tenth of a percent (0.1%), of the total entry fees collected
12 from participants located in the Commonwealth divided by the total entry fees
13 collected from all participants in the fantasy sports contest;
- 14 (10) "Principal stockholder" means any person who, individually or in concert with
15 his or her spouse and immediate family members, beneficially owns or controls,
16 directly or indirectly, fifteen percent (15%) or more of the equity ownership of a
17 fantasy contest operator or who, in concert with his or her spouse and immediate
18 family members, has the power to vote or cause the vote of fifteen percent (15%)
19 or more of any such operator;
- 20 (11) "Registered fantasy contest operator" means a fantasy contest operator that has
21 been issued a valid registration by the cabinet; and
- 22 (12) "Secretary" means the secretary of the Public Protection Cabinet.

23 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
24 READ AS FOLLOWS:

- 25 (1) No fantasy contest operator shall offer a fantasy contest to residents of the
26 Commonwealth without a valid registration issued by the cabinet, except that
27 fantasy sports contest operators with fewer than one hundred (100) participants

1 located in the Commonwealth in a calendar year shall be exempt from this
2 requirement.

3 (2) Any person or entity seeking to be registered as a fantasy sports operator shall
4 submit an application to the cabinet on a form prescribed by the cabinet as
5 promulgated in an administrative regulation, accompanied by payment of the
6 required fee established in Section 4 of this Act.

7 (3) The applicant shall provide the following information to the cabinet to ensure the
8 applicant meets the requirements for registration:

9 (a) The name of the applicant;

10 (b) The location of the applicant's principal place of business;

11 (c) A complete disclosure of ownership of the applicant including all directors,
12 officers, and principal stockholders;

13 (d) A designation of the responsible party who is the agent for the contest
14 operator for all communications with the cabinet;

15 (e) 1. The criminal record of all directors, officers, and principal
16 stockholders of the applicant.

17 2. An applicant may not be eligible for registration as a fantasy contest
18 operator or for licensure renewal if the applicant or any of its officers,
19 directors, general partners, or members has been convicted of or has
20 entered a plea of nolo contendere or guilty to a felony; and

21 (f) Any other documentation the cabinet may require.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) The cabinet shall consider all applications for registration and shall issue a valid
25 registration to an applicant that meets the criteria set forth in this chapter and
26 any administrative regulations promulgated by the cabinet.

27 (2) The cabinet shall have thirty (30) days after receiving an initial application to

1 issue or deny the application.

2 (3) The cabinet shall allow fantasy sports operators that are operating in the
3 Commonwealth as of January 1, 2017, to continue to lawfully operate until sixty
4 (60) days after applications for registration are made available to the public by
5 the cabinet.

6 (4) Operators who have applied for registration during that sixty (60) day period may
7 continue to operate while the application is pending. Operators who have not
8 applied for registration shall cease operations in this state by the expiration of the
9 sixty (60) day period. The initial registration shall be valid for one (1) year from
10 the date of issuance.

11 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO
12 READ AS FOLLOWS:

13 (1) The initial registration fee and annual renewal fee for a fantasy contest operator
14 shall be five thousand dollars (\$5,000).

15 (2) (a) The cabinet shall collect six percent (6%) of the adjusted gross revenue.
16 (b) If six percent (6%) of the adjusted gross revenue for the preceding twelve
17 (12) months exceeds five thousand dollars (\$5,000), then the cabinet shall
18 credit the initial registration fee or annual renewal fee against six percent
19 (6%) of the adjusted gross revenue.

20 (3) The cabinet may revoke, deny, or suspend the registration of a fantasy contest
21 operator if it finds that:

22 (a) Any partner, member, officer, principal stockholder, or director of the
23 operator has been convicted of a felony in this state, a felony in another
24 state which would be a felony if committed in this state, or a felony under
25 the laws of the United States. For purposes of this paragraph, the term
26 "convicted" means having been found guilty, regardless of adjudication of
27 guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty

1 or nolo contendere; or

2 (b) Any fantasy contest operator has:

3 1. Violated any order of the secretary or any of the provisions set forth in
4 this chapter;

5 2. Failed to meet the requirements for licensure under this chapter; or

6 3. Used fraud, misrepresentation, or deceit in applying for or attempting
7 to apply for a registration or otherwise in operating or offering to
8 operate a fantasy contest.

9 (4) If it appears to the secretary, based upon credible evidence as presented in a
10 written complaint, that a person is operating or offering to operate a fantasy
11 contest without being registered, the secretary may issue an order to cease and
12 desist the activity.

13 (5) The secretary shall set forth in the order:

14 (a) The statutes and administrative regulations alleged to have been violated;

15 (b) The facts alleged to have constituted the violation; and

16 (c) The requirement that all unauthorized practices immediately cease.

17 (6) Within ten (10) days after service of the order to cease and desist, the person may
18 request a hearing on the question of whether acts or practices in violation of this
19 section have occurred. The hearing shall be conducted pursuant to KRS Chapter
20 13B.

21 (7) Officers and directors of registered fantasy contest operators along with their
22 immediate family are prohibited from competing in any fantasy contest offered by
23 any fantasy contest operator in which the operator offers a cash prize.

24 (8) A registered fantasy contest operator shall implement commercially reasonable
25 procedures for fantasy contests with an entry fee that are intended to:

26 (a) Prevent the fantasy contest operator, its employees, and the immediate
27 family of employees from competing in any fantasy contest with a cash prize

- 1 offered by any fantasy contest operator;
- 2 (b) Prevent sharing of confidential information that could affect fantasy
3 contest play with third parties until such information is made publicly
4 available;
- 5 (c) Verify that each fantasy contest participant in each fantasy contest is
6 eighteen (18) years of age or older;
- 7 (d) Prevent an individual who is a participant or game official in an actual
8 sporting event or competition from participating in any fantasy sports
9 contest that is determined in whole or in part on the performance of that
10 individual, the individual's actual team, or the accumulated statistical
11 results of the sporting event or competition in which the individual is a
12 participant or contest official;
- 13 (e) Allow an individual to restrict himself or herself from entering a fantasy
14 contest upon request and provide reasonable steps to prevent the person
15 from entering such fantasy contests offered by the fantasy contest operator;
- 16 (f) Disclose the number of entries that a fantasy contest participant may submit
17 to each fantasy contest;
- 18 (g) Provide reasonable steps to prevent participants from submitting more than
19 the allowable number of entries;
- 20 (h) In any contest involving more than one hundred (100) entries, prevent a
21 participant from submitting:
- 22 1. Three percent (3%) of all entries; or
23 2. One hundred fifty (150) entries;
24 whichever is less;
- 25 (i) Segregate participants' funds from operational funds and maintain a
26 reserve in the form of cash, cash equivalents, an irrevocable letter of credit,
27 a bond, an escrow account approved by the cabinet, or a combination

1 thereof, in the amount of the deposits in participants' accounts for benefit
2 and protection of the funds held in those accounts;

3 (j) Distinguish highly experienced participants and beginner participants and
4 ensure that highly experienced participants are conspicuously identified as
5 such to all participants;

6 (k) Prohibit the use of scripts in fantasy contests that give a participant an
7 unfair advantage over other participants and make all authorized scripts
8 readily available to all fantasy contest participants;

9 (l) Clearly and conspicuously disclose all rules that govern its contests,
10 including the material terms of each promotional offer at the time the offer
11 is advertised; and

12 (m) Use technologically reasonable measures to limit each fantasy contest
13 participant to one (1) active account with that operator.

14 (9) A registered fantasy contest operator shall not conduct, operate, or offer a fantasy
15 contest that:

16 (a) Utilizes:

17 1. Video or mechanical reels or symbols or any other depictions of slot
18 machines, poker, blackjack, craps, or roulette; or

19 2. Any device that qualifies as or replicates contest activities that
20 constitute gaming; or

21 (b) Includes a university, college, high school, or youth athletic contest or
22 events.

23 (10) (a) A fantasy contest operator offering fantasy contests shall submit its records
24 to a certified public accountant selected by the cabinet using a method
25 authorized by state law to perform an annual independent audit consistent
26 with the standards of the American Institute of Certified Public
27 Accountants to ensure compliance with all of the requirements in this

1 chapter.

2 (b) The fantasy contest operator shall pay all costs of the audit. The audit shall
3 cover a one (1) year period from the date the registration is granted or
4 renewed.

5 (11) (a) Each fantasy contest operator shall keep daily records of its operations and
6 shall maintain the records for at least three (3) years.

7 (b) The records shall sufficiently detail all financial transactions to determine
8 compliance with the requirements of this chapter and shall be available for
9 audit and inspection by the cabinet during the fantasy contest operator's
10 regular business hours.

11 (12) Any person, firm, corporation, association, agent, or employee who knowingly
12 violates any provision of this chapter shall be liable for a civil penalty of not more
13 than one thousand dollars (\$1,000) for each act or omission, which constitutes a
14 violation, not to exceed twenty-five thousand dollars (\$25,000) for continuing
15 violations arising out of the same transaction or occurrence, which shall accrue
16 to the Commonwealth and may be recovered in a civil action brought by the
17 cabinet. Nothing in this chapter shall deprive an aggrieved participant of any
18 personal right of redress.

19 (13) The cabinet shall promulgate administrative regulations for the operation of
20 fantasy contests as necessary to enforce the provisions of this chapter, but the
21 cabinet shall not adopt rules limiting or regulating:

22 (a) Rules or the administration of an individual contest or contest;

23 (b) The statistical makeup of a contest or contest; or

24 (c) The digital platform of an operator.

25 (14) The provisions of KRS Chapters 230 and 528 shall not apply to fantasy contests
26 operated in accordance with the provisions of this chapter.