

1 SB325
2 191811-1
3 By Senator Sanford
4 RFD: Tourism and Marketing
5 First Read: 20-FEB-18

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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; and to exempt fantasy contests from
23 the 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) ACTIVE FANTASY CONTEST PLAYER ACCOUNT. A user
9 who has participated in a fantasy contest for an entry fee in
10 the State of Alabama in the preceding 24 months.

11 (2) CONFIDENTIAL INFORMATION. Information related to
12 the play of a fantasy contest by fantasy contest players
13 obtained as a result of, or by virtue of, a person's
14 employment.

15 (3) ENTRY FEE. Cash or cash equivalent that is
16 required to be paid by a fantasy contest player to a fantasy
17 contest operator in order to participate in a fantasy contest.

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

25 (5) FANTASY CONTEST OPERATOR. A person or entity
26 that offers fantasy contests with an entry fee for a cash
27 prize to the general public.

1 (6) FANTASY CONTEST PLAYER. A person who
2 participates in a fantasy contest offered by a fantasy contest
3 operator.

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

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

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

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

23 (2) A fantasy contest operator that offered fantasy
24 contests in this state prior to May 1, 2017, is entitled to
25 operate fantasy contests in this state upon the effective date
26 of this act, provided such operator files an application for

1 registration with the Office of the Attorney General within 60
2 days of availability of the application.

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

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

12 (1) A fantasy contest operator with 5,000 or more
13 active player accounts shall pay an initial registration fee
14 of eighty-five thousand dollars (\$85,000). A fantasy contest
15 operator with fewer than 5,000 active fantasy contest player
16 accounts shall pay an initial registration fee of five
17 thousand dollars (\$5,000).

18 (2) A fantasy contest operator that has operated in
19 this state, but not immediately preceding its application for
20 registration, shall pay the initial registration fee based
21 upon the total number of active fantasy contest player
22 accounts it had over the most recent 24-month period of
23 operation in the state.

24 (3) A fantasy contest operator that has never
25 operated in this state shall pay an initial registration fee
26 of five thousand dollars (\$5,000).

1 (d) On the anniversary date of the fantasy contest
2 operator's registration, the fantasy contest operator shall
3 annually pay to the Office of the Attorney General a
4 registration renewal fee in accordance with the fee schedule
5 in subdivision (1) of subsection (c).

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

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

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

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

26 (3) Prevent the fantasy contest operator from
27 participating in a fantasy contest he or she offers.

1 (4) Verify that a fantasy contest player in a
2 fantasy contest is 19 years of age or older.

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

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

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

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

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

26 (10) Disclose the number of entries that a fantasy
27 contest player may submit to each such fantasy contest and

1 provide reasonable steps to prevent players from submitting
2 more than the allowable number.

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

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

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

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

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

1 Section 7. The Office of the Attorney General shall
2 have the authority to adopt rules to implement and administer
3 this act.

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

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

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

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

22 Section 12. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.