

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1175.01 Thomas Morris x4218

HOUSE BILL 16-1404

HOUSE SPONSORSHIP

Duran and Wist,

SENATE SPONSORSHIP

Cooke and Guzman,

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF FANTASY CONTESTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill defines a "fantasy contest" as a game or contest in which:

- ! The value of all prizes offered to winning participants is made known to the participants in advance of the contest; and
- ! Winning outcomes:
 - ! Reflect the relative knowledge and skill of the participants;
 - ! Are determined predominantly by accumulated

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 (1) "CONFIDENTIAL INFORMATION" MEANS INFORMATION RELATED
2 TO THE PLAY OF A FANTASY CONTEST BY FANTASY CONTEST PLAYERS
3 OBTAINED AS A RESULT OF OR BY VIRTUE OF A PERSON'S EMPLOYMENT.

4 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE.

5 (3) "ENTRY FEE" MEANS CASH OR CASH EQUIVALENTS THAT ARE
6 REQUIRED TO BE PAID BY A FANTASY CONTEST PLAYER TO A FANTASY
7 CONTEST OPERATOR IN ORDER TO PARTICIPATE IN A FANTASY CONTEST.

8 (4) "FANTASY CONTEST" MEANS A FANTASY OR SIMULATED GAME
9 OR CONTEST IN WHICH:

10 (a) THE VALUE OF ALL PRIZES AND AWARDS OFFERED TO WINNING
11 PARTICIPANTS IS ESTABLISHED AND MADE KNOWN TO THE PARTICIPANTS
12 IN ADVANCE OF THE CONTEST;

13 (b) ALL WINNING OUTCOMES REFLECT THE RELATIVE KNOWLEDGE
14 AND SKILL OF THE PARTICIPANTS AND ARE DETERMINED PREDOMINANTLY
15 BY ACCUMULATED STATISTICAL RESULTS OF THE PERFORMANCE OF
16 ATHLETES IN FULLY COMPLETED SPORTING EVENTS; EXCEPT THAT A
17 SPORTING EVENT THAT HAS BEEN CALLED OR SUSPENDED DUE TO
18 WEATHER OR ANY OTHER NATURAL OR UNFORSEEN EVENT IS CONSIDERED
19 FULLY COMPLETED; AND

20 (c) WINNING OUTCOMES ARE NOT BASED ON RANDOMIZED OR
21 HISTORICAL EVENTS OR ON THE SCORE, POINT SPREAD, OR ANY
22 PERFORMANCE OF ANY SINGLE ACTUAL SPORTS TEAM OR COMBINATION OF
23 SUCH TEAMS OR SOLELY ON ANY SINGLE PERFORMANCE OF AN INDIVIDUAL
24 ATHLETE IN ANY SINGLE ACTUAL SPORTING EVENT.

25 (5) "FANTASY CONTEST OPERATOR" MEANS A PERSON OR ENTITY
26 THAT OFFERS FANTASY CONTESTS WITH AN ENTRY FEE FOR A CASH PRIZE
27 TO MEMBERS OF THE PUBLIC.

1 (6) "FANTASY CONTEST PLAYER" MEANS A PERSON WHO
2 PARTICIPATES IN A FANTASY CONTEST OFFERED BY A FANTASY CONTEST
3 OPERATOR.

4 (7) "OFFICE" MEANS THE OFFICE OF FANTASY CONTESTS CREATED
5 IN SECTION 12-15.5-103.

6 **12-15.5-103. Office of fantasy contests - creation - powers and**
7 **duties - director - rules.** (1) THERE IS HEREBY CREATED, WITHIN THE
8 DIVISION OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF
9 REGULATORY AGENCIES, THE OFFICE OF FANTASY CONTESTS. THE OFFICE
10 SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS
11 UNDER THE DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS
12 AS IF THE OFFICE WERE TRANSFERRED TO THE DIRECTOR OF THE DIVISION
13 OF PROFESSIONS AND OCCUPATIONS BY A **TYPE 2** TRANSFER AS THAT TERM
14 IS DEFINED IN SECTION 24-1-105, C.R.S. THE DIRECTOR OF THE DIVISION
15 OF PROFESSIONS AND OCCUPATIONS SHALL APPOINT THE DIRECTOR OF THE
16 OFFICE.

17 (2) THE DIRECTOR SHALL PROMULGATE REASONABLE RULES FOR
18 THE IDENTIFICATION, LICENSING, AND FINGERPRINTING OF APPLICANTS
19 AND FOR THE CONDUCTING AND OPERATING OF FANTASY CONTESTS
20 OFFERED TO PERSONS IN THIS STATE.

21 (3) THE DIRECTOR MAY ADMINISTER OATHS, TAKE AFFIRMATIONS
22 OF WITNESSES, AND ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF
23 WITNESSES AND THE PRODUCTION OF ALL RELEVANT PAPERS, BOOKS,
24 RECORDS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
25 INVESTIGATION, ACCUSATION, OR OTHER MATTER COMING BEFORE THE
26 DIRECTOR PURSUANT TO THIS ARTICLE. THE DIRECTOR MAY APPOINT AN
27 ADMINISTRATIVE LAW JUDGE PURSUANT TO PART 10 OF ARTICLE 30 OF

1 TITLE 24, C.R.S., TO TAKE EVIDENCE AND TO MAKE FINDINGS AND REPORT
2 THEM TO THE DIRECTOR.

3 **12-15.5-104. Licensing.** (1) A PERSON SHALL NOT OPERATE OR
4 OFFER TO OPERATE A FANTASY CONTEST UNLESS THE PERSON IS LICENSED
5 AS A FANTASY CONTEST OPERATOR BY THE OFFICE. THE INITIAL LICENSE
6 APPLICATION FEE IS _____ AND THE ANNUAL LICENSE RENEWAL FEE IS
7 _____. A FANTASY CONTEST OPERATOR IS EXEMPT FROM PAYING THE
8 ANNUAL LICENSE FEE IF LESS THAN SEVEN THOUSAND FIVE HUNDRED
9 FANTASY CONTEST PLAYERS RESIDING WITHIN THIS STATE PARTICIPATE IN
10 THE FANTASY CONTEST OPERATOR'S FANTASY CONTESTS.

11 (2) APPLICATIONS FOR LICENSURE AS A FANTASY CONTEST
12 OPERATOR MUST:

13 (a) BE VERIFIED BY THE OATH OR AFFIRMATION OF SUCH PERSON
14 OR PERSONS AS THE OFFICE MAY PRESCRIBE;

15 (b) BE MADE TO THE OFFICE ON FORMS PREPARED AND FURNISHED
16 BY THE OFFICE; AND

17 (c) SET FORTH SUCH INFORMATION AS THE OFFICE MAY REQUIRE
18 TO ENABLE THE OFFICE TO DETERMINE WHETHER AN APPLICANT MEETS
19 THE REQUIREMENTS FOR LICENSURE UNDER THIS ARTICLE. THE
20 INFORMATION MUST INCLUDE:

21 (I) THE NAME AND ADDRESS OF THE APPLICANT; AND

22 (II) IF A PARTNERSHIP, THE NAMES AND ADDRESSES OF ALL OF THE
23 PARTNERS, AND IF A CORPORATION, ASSOCIATION, OR OTHER
24 ORGANIZATION, THE NAMES AND ADDRESSES OF THE PRESIDENT, VICE
25 PRESIDENT, SECRETARY, AND MANAGING OFFICER, TOGETHER WITH ALL
26 OTHER INFORMATION DEEMED NECESSARY BY THE OFFICE.

27 (3) AN APPLICANT IS NOT ELIGIBLE FOR LICENSURE AS A FANTASY

1 CONTEST OPERATOR OR LICENSURE RENEWAL IF ANY OF THE FOLLOWING
2 HAS BEEN CONVICTED OF OR HAS ENTERED A PLEA OF NOLO CONTENDERE
3 OR GUILTY TO A FELONY:

4 (a) THE APPLICANT OR ANY OF ITS OFFICERS, DIRECTORS, OR
5 GENERAL PARTNERS; OR

6 (b) ANY STOCKHOLDER, LIMITED PARTNER, OR OTHER PERSON
7 HAVING A FINANCIAL OR EQUITY INTEREST OF FIVE PERCENT OR GREATER
8 IN THE APPLICANT.

9 (4) WITH THE SUBMISSION OF AN APPLICATION FOR A LICENSE
10 GRANTED PURSUANT TO THIS SECTION, EACH APPLICANT SHALL SUBMIT A
11 COMPLETE SET OF HIS OR HER FINGERPRINTS TO THE OFFICE. THE OFFICE
12 SHALL SUBMIT THE FINGERPRINTS TO THE COLORADO BUREAU OF
13 INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED
14 CRIMINAL HISTORY RECORD CHECKS. THE COLORADO BUREAU OF
15 INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL
16 BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING
17 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE OFFICE
18 MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR AN
19 APPLICANT OR A LICENSE HOLDER WHO HAS TWICE SUBMITTED TO A
20 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE
21 FINGERPRINTS ARE UNCLASSIFIABLE. AN APPLICANT WHO HAS PREVIOUSLY
22 SUBMITTED FINGERPRINTS FOR STATE OR LOCAL LICENSING PURPOSES MAY
23 REQUEST THE USE OF THE FINGERPRINTS ON FILE. THE OFFICE SHALL USE
24 THE INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL
25 HISTORY RECORD CHECK TO INVESTIGATE AND DETERMINE WHETHER AN
26 APPLICANT IS QUALIFIED TO HOLD A LICENSE PURSUANT TO THIS SECTION.
27 THE OFFICE MAY VERIFY THE INFORMATION AN APPLICANT IS REQUIRED TO

1 SUBMIT. THE APPLICANT SHALL PAY THE COSTS ASSOCIATED WITH THE
2 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO THE
3 COLORADO BUREAU OF INVESTIGATION.

4 (5) A FANTASY CONTEST OPERATOR SHALL NOT CONDUCT,
5 OPERATE, OR OFFER A FANTASY CONTEST THAT:

6 (a) UTILIZES:

7 (I) VIDEO OR MECHANICAL REELS OR SYMBOLS OR ANY OTHER
8 DEPICTIONS OF SLOT MACHINES, POKER, BLACKJACK, CRAPS, OR ROULETTE;
9 OR

10 (II) ANY DEVICE THAT QUALIFIES AS OR REPLICATES GAMES THAT
11 CONSTITUTE LIMITED GAMING UNDER SECTION 9 OF ARTICLE XVIII OF THE
12 COLORADO CONSTITUTION; OR

13 (b) INCLUDES A UNIVERSITY, COLLEGE, HIGH SCHOOL, OR YOUTH
14 SPORTING EVENT.

15 **12-15.5-105. Consumer protections.** (1) A FANTASY CONTEST
16 OPERATOR SHALL IMPLEMENT COMMERCIALY REASONABLE PROCEDURES
17 FOR FANTASY CONTESTS WITH AN ENTRY FEE, WHICH PROCEDURES ARE
18 DESIGNED TO:

19 (a) PREVENT EMPLOYEES OF THE FANTASY CONTEST OPERATOR,
20 AND RELATIVES LIVING IN THE SAME HOUSEHOLD AS SUCH EMPLOYEES,
21 FROM COMPETING IN ANY FANTASY CONTESTS OFFERED BY ANY FANTASY
22 CONTEST OPERATOR IN WHICH THE OPERATOR OFFERS A CASH PRIZE;

23 (b) PREVENT SHARING OF CONFIDENTIAL INFORMATION THAT
24 COULD AFFECT SUCH FANTASY CONTEST PLAY WITH THIRD PARTIES UNTIL
25 THE INFORMATION IS MADE PUBLICLY AVAILABLE;

26 (c) PREVENT THE FANTASY CONTEST OPERATOR FROM
27 PARTICIPATING IN SUCH A FANTASY GAME HE OR SHE OFFERS;

1 (d) VERIFY THAT A FANTASY CONTEST PLAYER IN SUCH A FANTASY
2 CONTEST IS EIGHTEEN YEARS OF AGE OR OLDER;

3 (e) ENSURE THAT INDIVIDUALS WHO PARTICIPATE OR OFFICIATE IN
4 A GAME OR CONTEST THAT IS THE SUBJECT OF SUCH A FANTASY CONTEST
5 WILL BE RESTRICTED FROM ENTERING SUCH A FANTASY CONTEST THAT IS
6 DETERMINED, IN WHOLE OR IN PART, ON THE ACCUMULATED STATISTICAL
7 RESULTS OF A TEAM OF INDIVIDUALS IN THE GAME OR CONTEST IN WHICH
8 THEY ARE A PLAYER OR OFFICIAL;

9 (f) ALLOW INDIVIDUALS TO RESTRICT THEMSELVES FROM
10 ENTERING SUCH A FANTASY CONTEST UPON REQUEST AND PROVIDE
11 REASONABLE STEPS TO PREVENT THE PERSON FROM ENTERING SUCH
12 FANTASY CONTESTS OFFERED BY THE FANTASY CONTEST OPERATOR;

13 (g) DISCLOSE THE NUMBER OF ENTRIES THAT A FANTASY CONTEST
14 PLAYER MAY SUBMIT TO EACH SUCH FANTASY CONTEST AND PROVIDE
15 REASONABLE STEPS TO PREVENT PLAYERS FROM SUBMITTING MORE THAN
16 THE ALLOWABLE NUMBER;

17 (h) SEGREGATE FANTASY CONTEST PLAYER FUNDS FROM
18 OPERATIONAL FUNDS AND MAINTAIN A RESERVE IN THE FORM OF CASH,
19 CASH EQUIVALENTS, AN IRREVOCABLE LETTER OF CREDIT, A BOND, OR A
20 COMBINATION THEREOF, IN THE AMOUNT OF THE DEPOSITS MADE TO THE
21 ACCOUNTS OF FANTASY CONTEST PLAYERS FOR THE BENEFIT AND
22 PROTECTION OF THE FUNDS HELD IN SUCH ACCOUNTS.

23 (2) A FANTASY CONTEST OPERATOR OFFERING FANTASY CONTESTS
24 IN THIS STATE SHALL:

25 (a) CONTRACT WITH A THIRD PARTY TO ANNUALLY PERFORM AN
26 INDEPENDENT AUDIT, CONSISTENT WITH THE STANDARDS ESTABLISHED BY
27 THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD, TO ENSURE

1 COMPLIANCE WITH THIS ARTICLE; AND

2 (b) SUBMIT THE RESULTS OF THE AUDIT TO THE OFFICE.

3 **12-15.5-106. Duty to maintain records.** EACH FANTASY CONTEST
4 OPERATOR SHALL KEEP DAILY RECORDS OF ITS OPERATIONS AND SHALL
5 MAINTAIN THE RECORDS FOR AT LEAST THREE YEARS. THE RECORDS MUST
6 SUFFICIENTLY DETAIL ALL FINANCIAL TRANSACTIONS TO DETERMINE
7 COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND MUST BE
8 AVAILABLE FOR AUDIT AND INSPECTION BY THE OFFICE DURING THE
9 FANTASY CONTEST OPERATOR'S REGULAR BUSINESS HOURS.

10 **12-15.5-107. Authorization to conduct fantasy contests.**

11 (1) FANTASY CONTESTS ARE AUTHORIZED AND MAY BE CONDUCTED BY
12 A FANTASY CONTEST OPERATOR AT A LICENSED GAMING ESTABLISHMENT,
13 AS THAT TERM IS DEFINED IN SECTION 12-47.1-103 (15). A GAMING
14 RETAILER, AS THAT TERM IS DEFINED IN SECTION 12-47.1-103 (24), MAY
15 CONDUCT FANTASY CONTESTS IF THE GAMING RETAILER IS LICENSED AS A
16 FANTASY CONTEST OPERATOR.

17 (2) FANTASY CONTESTS ARE AUTHORIZED AND MAY BE
18 CONDUCTED BY A FANTASY CONTEST OPERATOR AT A LICENSED FACILITY
19 AT WHICH PARI-MUTUEL WAGERING, AS THAT TERM IS DEFINED IN SECTION
20 12-60-102 (20.5), MAY OCCUR. AN OPERATOR OF A CLASS B TRACK, AS
21 THAT TERM IS DEFINED IN SECTION 12-60-102 (4), MAY CONDUCT FANTASY
22 CONTESTS IF THE OPERATOR IS LICENSED AS A FANTASY CONTEST
23 OPERATOR.

24 (3) A FANTASY CONTEST CONDUCTED IN COMPLIANCE WITH THIS
25 ARTICLE DOES NOT VIOLATE ARTICLE 10 OR 10.5 OF TITLE 18, C.R.S.

26 **12-15.5-108. Grounds for discipline.** (1) THE DIRECTOR MAY
27 DENY, SUSPEND, REVOKE, PLACE ON PROBATION, OR ISSUE A LETTER OF

1 ADMONITION AGAINST A LICENSE OR APPLICATION FOR A LICENSE IF THE
2 FANTASY CONTEST OPERATOR OR APPLICANT:

3 (a) VIOLATES ANY ORDER OF THE DIRECTOR OR ANY PROVISION OF
4 THIS ARTICLE OR THE RULES ESTABLISHED UNDER THIS ARTICLE;

5 (b) FAILS TO MEET THE REQUIREMENTS FOR LICENSURE UNDER
6 THIS ARTICLE; OR

7 (c) USES FRAUD, MISREPRESENTATION, OR DECEIT IN APPLYING FOR
8 OR ATTEMPTING TO APPLY FOR LICENSURE.

9 **12-15.5-109. Civil penalties.** A FANTASY CONTEST OPERATOR, OR
10 AN EMPLOYEE OR AGENT THEREOF, WHO VIOLATES THIS ARTICLE IS
11 SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND
12 DOLLARS FOR EACH SUCH VIOLATION, WHICH THE STATE TREASURER
13 SHALL CREDIT TO THE GENERAL FUND. THE OFFICE MAY FILE A CIVIL
14 ACTION TO COLLECT THE PENALTY.

15 **SECTION 2. Effective date - applicability.** This act takes effect
16 July 1, 2016, and applies to conduct occurring on or after said date.

17 **SECTION 3. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.