

As Passed by the Senate

132nd General Assembly

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Sub. H. B. No. 132

Representatives Dever, McColley

Cosponsors: Representatives Blessing, Cera, Seitz

Senators Burke, Eklund, Oelslager

A BILL

To amend section 3772.03 and to enact sections 1
3774.01, 3774.02, 3774.03, 3774.04, 3774.05, 2
3774.06, 3774.07, 3774.08, and 3774.09 of the 3
Revised Code to grant the Ohio Casino Control 4
Commission the authority to regulate fantasy 5
contests and to exempt fantasy contests from the 6
gambling laws. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3772.03 be amended and sections 8
3774.01, 3774.02, 3774.03, 3774.04, 3774.05, 3774.06, 3774.07, 9
3774.08, and 3774.09 of the Revised Code be enacted to read as 10
follows: 11

Sec. 3772.03. (A) To ensure the integrity of casino 12
gaming, the commission shall have authority to complete the 13
functions of licensing, regulating, investigating, and 14
penalizing casino operators, management companies, holding 15
companies, key employees, casino gaming employees, and gaming- 16
related vendors. The commission also shall have jurisdiction 17

over all persons participating in casino gaming authorized by 18
Section 6(C) of Article XV, Ohio Constitution, and this chapter. 19

(B) All rules adopted by the commission under this chapter 20
shall be adopted under procedures established in Chapter 119. of 21
the Revised Code. The commission may contract for the services 22
of experts and consultants to assist the commission in carrying 23
out its duties under this section. 24

(C) The commission shall adopt rules as are necessary for 25
completing the functions stated in division (A) of this section 26
and for addressing the subjects enumerated in division (D) of 27
this section. 28

(D) The commission shall adopt, and as advisable and 29
necessary shall amend or repeal, rules that include all of the 30
following: 31

(1) The prevention of practices detrimental to the public 32
interest; 33

(2) Prescribing the method of applying, and the form of 34
application, that an applicant for a license under this chapter 35
must follow as otherwise described in this chapter; 36

(3) Prescribing the information to be furnished by an 37
applicant or licensee as described in section 3772.11 of the 38
Revised Code; 39

(4) Describing the certification standards and duties of 40
an independent testing laboratory certified under section 41
3772.31 of the Revised Code and the relationship between the 42
commission, the laboratory, the gaming-related vendor, and the 43
casino operator; 44

(5) The minimum amount of insurance that must be 45

maintained by a casino operator, management company, holding company, or gaming-related vendor;	46 47
(6) The approval process for a significant change in ownership or transfer of control of a licensee as provided in section 3772.091 of the Revised Code;	48 49 50
(7) The design of gaming supplies, devices, and equipment to be distributed by gaming-related vendors;	51 52
(8) Identifying the casino gaming that is permitted, identifying the gaming supplies, devices, and equipment, that are permitted, defining the area in which the permitted casino gaming may be conducted, and specifying the method of operation according to which the permitted casino gaming is to be conducted as provided in section 3772.20 of the Revised Code, and requiring gaming devices and equipment to meet the standards of this state;	53 54 55 56 57 58 59 60
(9) Tournament play in any casino facility;	61
(10) Establishing and implementing a voluntary exclusion program that provides all of the following:	62 63
(a) Except as provided by commission rule, a person who participates in the program shall agree to refrain from entering a casino facility.	64 65 66
(b) The name of a person participating in the program shall be included on a list of persons excluded from all casino facilities.	67 68 69
(c) Except as provided by commission rule, no person who participates in the program shall petition the commission for admittance into a casino facility.	70 71 72
(d) The list of persons participating in the program and	73

the personal information of those persons shall be confidential 74
and shall only be disseminated by the commission to a casino 75
operator and the agents and employees of the casino operator for 76
purposes of enforcement and to other entities, upon request of 77
the participant and agreement by the commission. 78

(e) A casino operator shall make all reasonable attempts 79
as determined by the commission to cease all direct marketing 80
efforts to a person participating in the program. 81

(f) A casino operator shall not cash the check of a person 82
participating in the program or extend credit to the person in 83
any manner. However, the program shall not exclude a casino 84
operator from seeking the payment of a debt accrued by a person 85
before participating in the program. 86

(g) Any and all locations at which a person may register 87
as a participant in the program shall be published. 88

(11) Requiring the commission to adopt standards regarding 89
the marketing materials of a licensed casino operator, including 90
allowing the commission to prohibit marketing materials that are 91
contrary to the adopted standards; 92

(12) Requiring that the records, including financial 93
statements, of any casino operator, management company, holding 94
company, and gaming-related vendor be maintained in the manner 95
prescribed by the commission and made available for inspection 96
upon demand by the commission, but shall be subject to section 97
3772.16 of the Revised Code; 98

(13) Permitting a licensed casino operator, management 99
company, key employee, or casino gaming employee to question a 100
person suspected of violating this chapter; 101

(14) The chips, tokens, tickets, electronic cards, or 102

similar objects that may be purchased by means of an agreement 103
under which credit is extended to a wagerer by a casino 104
operator; 105

(15) Establishing standards for provisional key employee 106
licenses for a person who is required to be licensed as a key 107
employee and is in exigent circumstances and standards for 108
provisional licenses for casino gaming employees who submit 109
complete applications and are compliant under an instant 110
background check. A provisional license shall be valid not 111
longer than three months. A provisional license may be renewed 112
one time, at the commission's discretion, for an additional 113
three months. In establishing standards with regard to instant 114
background checks the commission shall take notice of criminal 115
records checks as they are conducted under section 311.41 of the 116
Revised Code using electronic fingerprint reading devices. 117

(16) Establishing approval procedures for third-party 118
engineering or accounting firms, as described in section 3772.09 119
of the Revised Code; 120

(17) Prescribing the manner in which winnings, 121
compensation from casino gaming, and gross revenue must be 122
computed and reported by a licensee as described in Chapter 123
5753. of the Revised Code; 124

(18) Prescribing conditions under which a licensee's 125
license may be suspended or revoked as described in section 126
3772.04 of the Revised Code; 127

(19) Prescribing the manner and procedure of all hearings 128
to be conducted by the commission or by any hearing examiner; 129

(20) Prescribing technical standards and requirements that 130
are to be met by security and surveillance equipment that is 131

used at and standards and requirements to be met by personnel 132
who are employed at casino facilities, and standards and 133
requirements for the provision of security at and surveillance 134
of casino facilities; 135

(21) Prescribing requirements for a casino operator to 136
provide unarmed security services at a casino facility by 137
licensed casino employees, and the training that shall be 138
completed by these employees; 139

(22) Prescribing standards according to which casino 140
operators shall keep accounts and standards according to which 141
casino accounts shall be audited, and establish means of 142
assisting the tax commissioner in levying and collecting the 143
gross casino revenue tax levied under section 5753.02 of the 144
Revised Code; 145

(23) Defining penalties for violation of commission rules 146
and a process for imposing such penalties subject to the review 147
of the joint committee on gaming and wagering; 148

(24) Establishing standards for decertifying contractors 149
that violate statutes or rules of this state or the federal 150
government; 151

(25) Establishing standards for the repair of casino 152
gaming equipment; 153

(26) Establishing procedures to ensure that casino 154
operators, management companies, and holding companies are 155
compliant with the compulsive and problem gambling plan 156
submitted under section 3772.18 of the Revised Code; 157

(27) Prescribing, for institutional investors in or 158
holding companies of a casino operator, management company, 159
holding company, or gaming-related vendor that fall below the 160

threshold needed to be considered an institutional investor or a holding company, standards regarding what any employees, members, or owners of those investors or holding companies may do and shall not do in relation to casino facilities and casino gaming in this state, which standards shall rationally relate to the need to proscribe conduct that is inconsistent with passive institutional investment status;

(28) Providing for any other thing necessary and proper for successful and efficient regulation of casino gaming under this chapter.

(E) The commission shall employ and assign gaming agents as necessary to assist the commission in carrying out the duties of this chapter and Chapter 2915. of the Revised Code. In order to maintain employment as a gaming agent, the gaming agent shall successfully complete all continuing training programs required by the commission and shall not have been convicted of or pleaded guilty or no contest to a disqualifying offense as defined in section 3772.07 of the Revised Code.

(F) The commission, as a law enforcement agency, and its gaming agents, as law enforcement officers as defined in section 2901.01 of the Revised Code, shall have authority with regard to the detection and investigation of, the seizure of evidence allegedly relating to, and the apprehension and arrest of persons allegedly committing violations of this chapter or gambling offenses as defined in section 2915.01 of the Revised Code or violations of any other law of this state that may affect the integrity of casino gaming or the operation of skill-based amusement machines, and shall have access to casino facilities and skill-based amusement machine facilities to carry out the requirements of this chapter.

(G) The commission may eject or exclude or authorize the 191
ejection or exclusion of and a gaming agent may eject a person 192
from a casino facility for any of the following reasons: 193

(1) The person's name is on the list of persons 194
voluntarily excluding themselves from all casinos in a program 195
established according to rules adopted by the commission; 196

(2) The person violates or conspires to violate this 197
chapter or a rule adopted thereunder; or 198

(3) The commission determines that the person's conduct or 199
reputation is such that the person's presence within a casino 200
facility may call into question the honesty and integrity of the 201
casino gaming operations or interfere with the orderly conduct 202
of the casino gaming operations. 203

(H) A person, other than a person participating in a 204
voluntary exclusion program, may petition the commission for a 205
public hearing on the person's ejection or exclusion under this 206
chapter. 207

(I) A casino operator or management company shall have the 208
same authority to eject or exclude a person from the management 209
company's casino facilities as authorized in division (G) of 210
this section. The licensee shall immediately notify the 211
commission of an ejection or exclusion. 212

(J) The commission shall submit a written annual report 213
with the governor, president and minority leader of the senate, 214
speaker and minority leader of the house of representatives, and 215
joint committee on gaming and wagering before the first day of 216
September each year. The annual report shall cover the previous 217
fiscal year and shall include all of the following: 218

(1) A statement describing the receipts and disbursements 219

of the commission;	220
(2) Relevant financial data regarding casino gaming,	221
including gross revenues and disbursements made under this	222
chapter;	223
(3) Actions taken by the commission;	224
(4) An update on casino operators', management companies',	225
and holding companies' compulsive and problem gambling plans and	226
the voluntary exclusion program and list;	227
(5) Information regarding prosecutions for conduct	228
described in division (H) of section 3772.99 of the Revised	229
Code, including, but not limited to, the total number of	230
prosecutions commenced and the name of each person prosecuted;	231
(6) Any additional information that the commission	232
considers useful or that the governor, president or minority	233
leader of the senate, speaker or minority leader of the house of	234
representatives, or joint committee on gaming and wagering	235
requests.	236
(K) To ensure the integrity of skill-based amusement	237
machine operations, the commission shall have jurisdiction over	238
all persons conducting or participating in the conduct of skill-	239
based amusement machine operations authorized by this chapter	240
and Chapter 2915. of the Revised Code, including the authority	241
to complete the functions of licensing, regulating,	242
investigating, and penalizing those persons in a manner that is	243
consistent with the commission's authority to do the same with	244
respect to casino gaming. To carry out this division, the	245
commission may adopt rules under Chapter 119. of the Revised	246
Code, including rules establishing fees and penalties related to	247
the operation of skill-based amusement machines.	248

(L) To ensure the integrity of fantasy contests, the 249
commission shall have jurisdiction over all persons conducting 250
or participating in the conduct of a fantasy contest authorized 251
by Chapter 3774. of the Revised Code, including the authority to 252
license, regulate, investigate, and penalize those persons in a 253
manner that is consistent with the commission's authority to do 254
the same with respect to skill-based amusement machines. To 255
carry out this division, the commission may adopt rules under 256
Chapter 119. of the Revised Code, including rules establishing 257
fees and penalties related to the operation of fantasy contests. 258

(M) All fees imposed pursuant to the rules adopted under 259
divisions (K) and (L) of this section shall be deposited into 260
the casino control commission fund. 261

Sec. 3774.01. As used in this chapter: 262

(A) "Commission" means the Ohio casino control commission. 263

(B) "Entry fee" means cash or cash equivalent that a 264
fantasy contest operator requires to be paid by a fantasy 265
contest player to participate in a fantasy contest. 266

(C) "Fantasy contest" means a simulated game or contest 267
with an entry fee that satisfies all of the following 268
conditions: 269

(1) The value of all prizes and awards offered to winning 270
fantasy contest players is established and made known to the 271
players in advance of the contest. 272

(2) All winning outcomes reflect the relative knowledge 273
and skill of the fantasy contest players and are determined 274
predominantly by accumulated statistical results of the 275
performance of managing rosters of athletes whose performance 276
directly corresponds with the actual performance of athletes in 277

professional sports competitions. 278

(3) Winning outcomes are not based on randomized or 279
historical events, or on the score, point spread, or any 280
performance of any single actual team or combination of teams or 281
solely on any single performance of an individual athlete or 282
player in any single actual event. 283

(4) The game or contest does not involve horses or horse 284
racing. 285

(D) "Fantasy contest operator" means a person that offers 286
fantasy contests with an entry fee for a prize or award to the 287
general public. Fantasy contest operator does not include a 288
person that offers a pool not conducted for profit as defined 289
under division (XX) of section 2915.01 of the Revised Code. 290

(E) "Fantasy contest platform" means any digital or online 291
method through which a fantasy contest operator provides access 292
to a fantasy contest. 293

(F) "Fantasy contest player" means a person who 294
participates in a fantasy contest offered by a fantasy contest 295
operator. 296

(G) "Holding company" means any corporation, firm, 297
partnership, limited partnership, limited liability company, 298
trust, or other form of business organization not a natural 299
person that directly or indirectly does any of the following: 300

(1) Has the power or right to control a fantasy contest 301
operator; 302

(2) Holds an ownership interest of ten per cent or more, 303
as determined by the commission, in a fantasy contest operator; 304

(3) Holds voting rights with the power to vote ten per 305

cent or more of the outstanding voting rights of a fantasy 306
contest operator. 307

(H) "Key employee" means a person, employed by a fantasy 308
contest operator, who is responsible for ensuring, and has the 309
authority necessary to ensure, that all requirements under this 310
chapter and the rules adopted under this chapter and division 311
(L) of section 3772.03 of the Revised Code are met. 312

(I) "Management company" means an organization retained by 313
a fantasy contest operator to manage a fantasy contest platform 314
and provide services such as accounting, general administration, 315
maintenance, recruitment, and other operational services. 316

(J) "Material nonpublic information" means information 317
related to the play of a fantasy contest by a fantasy contest 318
player that is not readily available to the general public and 319
is obtained as a result of a person's employment. 320

(K) "Script" means a list of commands that a fantasy- 321
contest-related computer program can execute and that is created 322
by a fantasy contest player, or by a third party for a fantasy 323
contest player, to automate processes on a fantasy contest 324
platform. 325

Sec. 3774.02. (A) A fantasy contest operator may not offer 326
a fantasy contest in this state without first obtaining a 327
license from the commission. 328

(B) (1) In order to obtain or renew a license to operate 329
fantasy contests in this state, a fantasy contest operator shall 330
pay to the commission a nonrefundable license fee. 331

(2) Unless a license issued under this chapter is 332
suspended, expires, or is revoked, a license may be renewed. 333
After a determination by the commission that the licensee is in 334

compliance with this chapter and rules adopted by the commission 335
under this chapter or division (L) of section 3772.03 of the 336
Revised Code, the license shall be renewed for not more than 337
three years, as determined by commission rule adopted under this 338
chapter or division (L) of section 3772.03 of the Revised Code. 339

(C) Notwithstanding division (B) of this section, the 340
commission may investigate a licensee at any time the commission 341
determines it is necessary to ensure that the licensee remains 342
in compliance with this chapter and the rules adopted under this 343
chapter or division (L) of section 3772.03 of the Revised Code. 344
Any fantasy contest operator that applies for or holds a license 345
under this chapter shall establish the operator's suitability 346
for a license by clear and convincing evidence. 347

Sec. 3774.03. The commission shall adopt rules under 348
Chapter 119. of the Revised Code as are necessary to complete 349
the functions and address the subjects enumerated in division 350
(A) of this section. 351

(A) The commission may adopt, and as advisable and 352
necessary may amend or repeal, rules that include all of the 353
following: 354

(1) Prohibiting fantasy contest operator's employees, 355
relatives living in the same household as those employees, and 356
athletes and referees in the underlying professional sports 357
competitions from competing in any public fantasy contest 358
offered by a fantasy contest operator or from sharing any 359
material nonpublic information with third parties; 360

(2) Ensuring fantasy contest operators prohibit access to 361
both of the following: 362

(a) Individuals under eighteen years of age; 363

(b) Individuals who, upon request, seek to restrict themselves from entering fantasy contests. 364
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(3) Ensuring fantasy contest operators segregate fantasy contest player funds from operational funds or maintain a reserve that exceeds the amount of player funds on deposit, which reserve may not be used for operational activities. These reserve funds may take the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, any other method approved by the commission, or a combination thereof, in an amount that must exceed the total balances of the fantasy contest player's accounts. All reserve funds, except payment processor reserves, shall be maintained by or otherwise under the control of a licensed fantasy contest operator, unless otherwise authorized by the commission. 366
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(4) Prescribing requirements related to beginning players and highly experienced players; 379
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(5) Prescribing requirements for internal procedures, including at a minimum, procedures for all of the following: 381
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(a) Complying with all applicable state and federal requirements to protect the privacy and online security of fantasy contest players and their accounts; 383
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(b) Suspending the accounts of players who violate this chapter and the rules adopted by the commission under this chapter or division (L) of section 3772.03 of the Revised Code; 386
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(c) Providing fantasy contest players with access to information on playing responsibly and seeking assistance for compulsive behavior; 389
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(d) Establishing the maximum number of entries that a 392

<u>fantasy contest player may submit to each fantasy contest;</u>	393
<u>(e) Any other procedure that the commission determines</u>	394
<u>necessary in the rules adopted under this chapter or division</u>	395
<u>(L) of section 3772.03 of the Revised Code.</u>	396
<u>(6) Requiring a license application to require an</u>	397
<u>applicant for a fantasy contest operator license to designate at</u>	398
<u>least one key employee as a condition to obtain a license;</u>	399
<u>(7) Establishing the length of time, which shall be not</u>	400
<u>more than three years, that a fantasy contest operator license</u>	401
<u>and renewal license shall be valid;</u>	402
<u>(8) Establishing the fee for obtaining or renewing a</u>	403
<u>license, which shall not exceed ten thousand dollars for each</u>	404
<u>year of a license and a total of thirty thousand dollars for a</u>	405
<u>three-year license, and which may be paid in equal installments</u>	406
<u>on an annual basis over the term of the license; and</u>	407
<u>(9) Any other procedure or thing that the commission</u>	408
<u>determines necessary to ensure the integrity of fantasy</u>	409
<u>contests.</u>	410
<u>(B) The commission may not adopt rules to do either of the</u>	411
<u>following:</u>	412
<u>(1) Limit or regulate the statistical makeup of a game or</u>	413
<u>contest, or the digital platform of a fantasy contest operator;</u>	414
<u>or</u>	415
<u>(2) Require licensure of any persons other than fantasy</u>	416
<u>contest operators, holding companies, or management companies.</u>	417
<u>(C) Nothing in this section prohibits the commission from</u>	418
<u>adopting rules establishing consumer protections.</u>	419

Sec. 3774.04. (A) Each fantasy contest operator shall 420
retain and maintain in a place secure from theft, loss, or 421
destruction all of the records required to be maintained by this 422
chapter for at least five years from the date of the record's 423
creation. 424

(B) Each fantasy contest operator shall retain and 425
maintain accurate, complete, legible, and permanent records, 426
whether in electronic or other format, of any books, records, or 427
documents relating to the fantasy contest operator's business 428
and accounting operations, which includes all of the following: 429

(1) The fantasy contest operator's business and 430
organizational structure; 431

(2) Correspondence with or by, or reports to or from, the 432
commission, or any local, state, or federal governmental agency, 433
foreign or domestic; 434

(3) The fantasy contest operator's financial statements, 435
accounting records, ledgers, and internal and external audit 436
records; 437

(4) All records related to the conduct of fantasy contests 438
by the fantasy contest operator in this state; 439

(5) Any materials used to advertise, publicize, or 440
otherwise promote the fantasy contest operator's fantasy 441
contests in this state; 442

(6) Any other books, records, or documents the commission 443
requires the fantasy contest operator to retain and maintain, in 444
rules adopted by the commission under this chapter or division 445
(L) of section 3772.03 of the Revised Code. 446

(C) Each fantasy contest operator shall organize all 447

required records in a manner that enables the commission to 448
locate, inspect, review, and analyze the records with reasonable 449
ease and efficiency and, upon request, provide the commission or 450
its executive director, or duly authorized designee thereof, 451
with the records required to be retained and maintained by this 452
section. 453

Sec. 3774.05. A fantasy contest operator offering a 454
fantasy contest in this state shall conduct sufficient auditing 455
as determined by the commission. 456

Sec. 3774.06. (A) A fantasy contest may not be offered on 457
any kiosk or machine physically located in a retail business 458
location. 459

(B) A fantasy contest operator operating in this state 460
shall not do any of the following: 461

(1) Operate or offer a fantasy contest based upon any 462
university, college, high school, or youth sporting event; 463

(2) Allow the use of scripts unless the scripts are made 464
readily available to all fantasy contest players; 465

(3) Employ false, deceptive, or misleading advertising, or 466
advertising that is not based upon fact; or 467

(4) Target players that have restricted themselves from 468
entering fantasy contests under the procedures for doing so as 469
required by the commission, or persons under eighteen years of 470
age, in the fantasy contest operator's advertising. 471

Sec. 3774.07. The commission, in an adjudication conducted 472
under Chapter 119. of the Revised Code, may penalize, limit, 473
condition, restrict, suspend, revoke, deny, or refuse to renew 474
the license of any licensee or applicant. The commission may 475

take into account any relevant aggravating or mitigating factors 476
without in any manner limiting the authority of the commission 477
to impose the level and type of discipline the commission 478
considers appropriate. 479

Sec. 3774.08. (A) Any information concerning the fantasy 480
contest operator's internal procedures, personal information, 481
financial information, trade secret information, and information 482
protected by the attorney-client privilege submitted, collected, 483
or gathered in relation to an application or license under this 484
chapter is confidential and not subject to disclosure by any 485
state agency or political subdivision as a record under section 486
149.43 of the Revised Code. 487

(B) The commission may share the information referenced in 488
this section with, or disclose the information to, any 489
appropriate governmental or licensing agency if the agency that 490
receives the information complies with the same requirements 491
regarding confidentiality as those with which the commission 492
must comply. 493

Sec. 3774.09. Fantasy contests offered in accordance with 494
this chapter and the rules adopted by the commission under this 495
chapter or division (L) of section 3772.03 of the Revised Code 496
are exempt from Chapter 2915. of the Revised Code. 497

Section 2. That existing section 3772.03 of the Revised 498
Code is hereby repealed. 499

Section 3. Notwithstanding sections 3774.02, 3774.03, and 500
3774.05 of the Revised Code as enacted by this act, fantasy 501
contest operators offering fantasy contests in this state on the 502
effective date of this act may continue to offer fantasy 503
contests without interruption, provided that the operator files 504

an application for licensure with the Ohio Casino Control	505
Commission within thirty days of the application's availability,	506
until the application for licensure has been approved or denied.	507