

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 132

Representatives Dever, McColley

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 46
company, or gaming-related vendor; 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 the personal information of those persons shall be confidential and shall only be disseminated by the commission to a casino	73 74 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 licenses for a person who is required to be licensed as a key employee and is in exigent circumstances and standards for provisional licenses for casino gaming employees who submit complete applications and are compliant under an instant background check. A provisional license shall be valid not longer than three months. A provisional license may be renewed one time, at the commission's discretion, for an additional three months. In establishing standards with regard to instant background checks the commission shall take notice of criminal records checks as they are conducted under section 311.41 of the Revised Code using electronic fingerprint reading devices.	106 107 108 109 110 111 112 113 114 115 116 117
(16) Establishing approval procedures for third-party engineering or accounting firms, as described in section 3772.09 of the Revised Code;	118 119 120
(17) Prescribing the manner in which winnings, compensation from casino gaming, and gross revenue must be computed and reported by a licensee as described in Chapter 5753. of the Revised Code;	121 122 123 124
(18) Prescribing conditions under which a licensee's license may be suspended or revoked as described in section 3772.04 of the Revised Code;	125 126 127
(19) Prescribing the manner and procedure of all hearings to be conducted by the commission or by any hearing examiner;	128 129
(20) Prescribing technical standards and requirements that are to be met by security and surveillance equipment that is used at and standards and requirements to be met by personnel who are employed at casino facilities, and standards and	130 131 132 133

requirements for the provision of security at and surveillance of casino facilities;	134 135
(21) Prescribing requirements for a casino operator to provide unarmed security services at a casino facility by licensed casino employees, and the training that shall be completed by these employees;	136 137 138 139
(22) Prescribing standards according to which casino operators shall keep accounts and standards according to which casino accounts shall be audited, and establish means of assisting the tax commissioner in levying and collecting the gross casino revenue tax levied under section 5753.02 of the Revised Code;	140 141 142 143 144 145
(23) Defining penalties for violation of commission rules and a process for imposing such penalties subject to the review of the joint committee on gaming and wagering;	146 147 148
(24) Establishing standards for decertifying contractors that violate statutes or rules of this state or the federal government;	149 150 151
(25) Establishing standards for the repair of casino gaming equipment;	152 153
(26) Establishing procedures to ensure that casino operators, management companies, and holding companies are compliant with the compulsive and problem gambling plan submitted under section 3772.18 of the Revised Code;	154 155 156 157
(27) Prescribing, for institutional investors in or holding companies of a casino operator, management company, holding company, or gaming-related vendor that fall below the threshold needed to be considered an institutional investor or a holding company, standards regarding what any employees,	158 159 160 161 162

members, or owners of those investors or holding companies may 163
do and shall not do in relation to casino facilities and casino 164
gaming in this state, which standards shall rationally relate to 165
the need to proscribe conduct that is inconsistent with passive 166
institutional investment status; 167

(28) Providing for any other thing necessary and proper 168
for successful and efficient regulation of casino gaming under 169
this chapter. 170

(E) The commission shall employ and assign gaming agents 171
as necessary to assist the commission in carrying out the duties 172
of this chapter and Chapter 2915. of the Revised Code. In order 173
to maintain employment as a gaming agent, the gaming agent shall 174
successfully complete all continuing training programs required 175
by the commission and shall not have been convicted of or 176
pleaded guilty or no contest to a disqualifying offense as 177
defined in section 3772.07 of the Revised Code. 178

(F) The commission, as a law enforcement agency, and its 179
gaming agents, as law enforcement officers as defined in section 180
2901.01 of the Revised Code, shall have authority with regard to 181
the detection and investigation of, the seizure of evidence 182
allegedly relating to, and the apprehension and arrest of 183
persons allegedly committing violations of this chapter or 184
gambling offenses as defined in section 2915.01 of the Revised 185
Code or violations of any other law of this state that may 186
affect the integrity of casino gaming or the operation of skill- 187
based amusement machines, and shall have access to casino 188
facilities and skill-based amusement machine facilities to carry 189
out the requirements of this chapter. 190

(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
<u>(L) To ensure the integrity of fantasy contests, the</u>	249

commission shall have jurisdiction over all fantasy contest 250
operators, employees of fantasy contest operators, and fantasy 251
contest players participating in a fantasy contest authorized by 252
Chapter 3774. of the Revised Code. The commission shall have the 253
authority to complete the functions of licensing, regulating, 254
investigating, and penalizing persons within the commission's 255
jurisdiction in a manner that is consistent with the 256
commission's authority to do the same with respect to skill- 257
based amusement machines. To carry out this division, the 258
commission may adopt rules under Chapter 119. of the Revised 259
Code, including rules establishing fees and penalties related to 260
the operation of fantasy contests. 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

(D) "Fantasy contest operator" means a person that offers 284
fantasy contests with an entry fee for a prize or award to the 285
general public. Fantasy contest operator does not include a 286
person that offers a pool not conducted for profit as defined 287
under division (XX) of section 2915.01 of the Revised Code. 288

(E) "Fantasy contest platform" means any digital or online 289
method through which a fantasy contest operator provides access 290
to a fantasy contest. 291

(F) "Fantasy contest player" means a person who 292
participates in a fantasy contest offered by a fantasy contest 293
operator. 294

(G) "Key employee" means a person, employed by a fantasy 295
contest operator, who is responsible for ensuring, and has the 296
authority necessary to ensure, that all requirements under this 297
chapter and the rules adopted under this chapter and division 298
(L) of section 3772.03 of the Revised Code are met. 299

(H) "Material nonpublic information" means information 300
related to the play of a fantasy contest by a fantasy contest 301
player that is not readily available to the general public and 302
is obtained as a result of a person's employment. 303

(I) "Script" means a list of commands that a fantasy- 304
contest-related computer program can execute and that is created 305
by a fantasy contest player, or by a third party for a fantasy 306
contest player, to automate processes on a fantasy contest 307

platform. 308

Sec. 3774.02. (A) A fantasy contest operator may not offer 309
a fantasy contest in this state without first obtaining a 310
license from the commission. 311

(B) (1) Before obtaining a license to operate fantasy 312
contests in this state, a fantasy contest operator shall pay to 313
the commission a nonrefundable initial license fee of thirty 314
thousand dollars. 315

(2) Unless a license issued under this chapter is 316
suspended, expires, or is revoked, a license may be renewed. 317
Before obtaining a renewal license, a fantasy contest operator 318
shall pay to the commission a nonrefundable license fee of 319
thirty thousand dollars. After a determination by the commission 320
that the licensee is in compliance with this chapter and rules 321
adopted by the commission under this chapter or division (L) of 322
section 3772.03 of the Revised Code, the license shall be 323
renewed for not more than three years, as determined by 324
commission rule adopted under this chapter or division (L) of 325
section 3772.03 of the Revised Code. 326

(C) Notwithstanding division (B) of this section, the 327
commission may investigate a licensee at any time the commission 328
determines it is necessary to ensure that the licensee remains 329
in compliance with this chapter and the rules adopted under this 330
chapter or division (L) of section 3772.03 of the Revised Code. 331
Any fantasy contest operator that applies for or holds a license 332
under this chapter shall establish the operator's suitability 333
for a license by clear and convincing evidence. 334

Sec. 3774.03. The commission shall adopt rules under 335
Chapter 119. of the Revised Code as are necessary to complete 336

<u>the functions and address the subjects enumerated in division</u>	337
<u>(A) of this section.</u>	338
<u>(A) The commission may adopt, and as advisable and</u>	339
<u>necessary may amend or repeal, rules that include all of the</u>	340
<u>following:</u>	341
<u>(1) Prohibiting fantasy contest operator's employees,</u>	342
<u>relatives living in the same household as those employees, and</u>	343
<u>athletes and referees in the underlying professional sports</u>	344
<u>competitions from competing in any public fantasy contest</u>	345
<u>offered by the fantasy contest operator or from sharing any</u>	346
<u>material nonpublic information with third parties;</u>	347
<u>(2) Ensuring fantasy contest operators prohibit access to</u>	348
<u>both of the following:</u>	349
<u>(a) Individuals under eighteen years of age;</u>	350
<u>(b) Individuals who, upon request, seek to restrict</u>	351
<u>themselves from entering fantasy contests.</u>	352
<u>(3) Ensuring fantasy contest operators segregate fantasy</u>	353
<u>contest player funds from operational funds or maintain a</u>	354
<u>reserve that exceeds the amount of player funds on deposit,</u>	355
<u>which reserve may not be used for operational activities. These</u>	356
<u>reserve funds may take the form of cash, cash equivalents,</u>	357
<u>payment processor reserves, payment processor receivables, an</u>	358
<u>irrevocable letter of credit, a bond, or a combination thereof,</u>	359
<u>in an amount that must exceed the total balances of the fantasy</u>	360
<u>contest player's accounts.</u>	361
<u>(4) Prescribing requirements related to beginning players</u>	362
<u>and highly experienced players;</u>	363
<u>(5) Prescribing requirements for internal procedures,</u>	364

<u>including at a minimum, procedures for all of the following:</u>	365
<u>(a) Complying with all applicable state and federal</u>	366
<u>requirements to protect the privacy and online security of</u>	367
<u>fantasy contest players and their accounts;</u>	368
<u>(b) Suspending the accounts of players who violate this</u>	369
<u>chapter and the rules adopted by the commission under this</u>	370
<u>chapter or division (L) of section 3772.03 of the Revised Code;</u>	371
<u>(c) Providing fantasy contest players with access to</u>	372
<u>information on playing responsibly and seeking assistance for</u>	373
<u>compulsive behavior;</u>	374
<u>(d) Establishing the maximum number of entries that a</u>	375
<u>fantasy contest player may submit to each fantasy contest;</u>	376
<u>(e) Any other procedure that the commission determines</u>	377
<u>necessary in the rules adopted under this chapter or division</u>	378
<u>(L) of section 3772.03 of the Revised Code.</u>	379
<u>(6) Requiring a license application to require an</u>	380
<u>applicant for a fantasy contest operator license to designate at</u>	381
<u>least one key employee as a condition to obtain a license;</u>	382
<u>(7) Establishing the length of time, which shall be not</u>	383
<u>more than three years, that a fantasy contest operator license</u>	384
<u>and renewal license shall be valid;</u>	385
<u>(8) Any other procedure or thing that the commission</u>	386
<u>determines necessary to ensure the integrity of fantasy sports</u>	387
<u>contests.</u>	388
<u>(B) The commission may not adopt rules limiting or</u>	389
<u>regulating the statistical makeup of a game or contest, or the</u>	390
<u>digital platform of a fantasy contest operator. Nothing in this</u>	391
<u>section prohibits the commission from adopting rules</u>	392

establishing consumer protections. 393

Sec. 3774.04. (A) Each fantasy contest operator shall 394
retain and maintain in a place secure from theft, loss, or 395
destruction all of the records required to be maintained by this 396
chapter for at least five years from the date of the record's 397
creation. 398

(B) Each fantasy contest operator shall retain and 399
maintain accurate, complete, legible, and permanent records, 400
whether in electronic or other format, of any books, records, or 401
documents relating to the fantasy contest operator's business 402
and accounting operations, which includes all of the following: 403

(1) The fantasy contest operator's business and 404
organizational structure; 405

(2) Correspondence with or by, or reports to or from, the 406
commission, or any local, state, or federal governmental agency, 407
foreign or domestic; 408

(3) The fantasy contest operator's financial statements, 409
accounting records, ledgers, and internal and external audit 410
records; 411

(4) All records related to the conduct of fantasy contests 412
by the fantasy contest operator in this state; 413

(5) Any materials used to advertise, publicize, or 414
otherwise promote the fantasy contest operator's fantasy 415
contests in this state; 416

(6) Any other books, records, or documents the commission 417
requires the fantasy contest operator to retain and maintain, in 418
rules adopted by the commission under this chapter or division 419
(L) of section 3772.03 of the Revised Code. 420

(C) Each fantasy contest operator shall organize all 421
required records in a manner that enables the commission to 422
locate, inspect, review, and analyze the records with reasonable 423
ease and efficiency and, upon request, provide the commission or 424
its executive director, or duly authorized designee thereof, 425
with the records required to be retained and maintained by this 426
section. 427

Sec. 3774.05. (A) A fantasy contest operator offering a 428
fantasy contest in this state shall contract with a third party 429
to perform an independent audit, consistent with the standards 430
established by the American institute of certified public 431
accountants, to ensure compliance with this chapter and any 432
rules adopted under this chapter or division (L) of section 433
3772.03 of the Revised Code. The audit shall be performed at 434
least once every three years unless otherwise ordered by the 435
commission. 436

(B) A fantasy contest operator offering a fantasy contest 437
in this state shall contract with a third party to perform an 438
annual independent financial audit, consistent with the 439
standards established by the American institute of certified 440
public accountants. 441

(C) Any third party contracted to perform an audit under 442
this section shall be approved by the commission before the 443
audit engagement. The fantasy contest operator shall submit the 444
audit results to the commission. 445

Sec. 3774.06. (A) A fantasy contest may not be offered on 446
any kiosk or machine physically located in a retail business 447
location. 448

(B) A fantasy contest operator operating in this state 449

shall not do any of the following: 450

(1) Operate or offer a fantasy contest based upon any 451
university, college, high school, or youth sporting event; 452

(2) Allow the use of scripts unless the scripts are made 453
readily available to all fantasy contest players; 454

(3) Employ false, deceptive, or misleading advertising, or 455
advertising that is not based upon fact; or 456

(4) Target players that have restricted themselves from 457
entering fantasy contests under the procedures for doing so as 458
required by the commission, or persons under eighteen years of 459
age, in the fantasy contest operator's advertising. 460

Sec. 3774.07. The commission, in an adjudication conducted 461
under Chapter 119. of the Revised Code, may penalize, limit, 462
condition, restrict, suspend, revoke, deny, or refuse to renew 463
the license of any licensee or applicant. The commission may 464
take into account any relevant aggravating or mitigating factors 465
without in any manner limiting the authority of the commission 466
to impose the level and type of discipline the commission 467
considers appropriate. 468

Sec. 3774.08. (A) Any information concerning the fantasy 469
contest operator's internal procedures, personal information, 470
financial information, trade secret information, and information 471
protected by the attorney-client privilege submitted, collected, 472
or gathered in relation to an application or license under this 473
chapter is confidential and not subject to disclosure by any 474
state agency or political subdivision as a record under section 475
149.43 of the Revised Code. 476

(B) The commission may share the information referenced in 477
this section with, or disclose the information to, any 478

appropriate governmental or licensing agency if the agency that 479
receives the information complies with the same requirements 480
regarding confidentiality as those with which the commission 481
must comply. 482

Sec. 3774.09. Fantasy contests offered in accordance with 483
this chapter and the rules adopted by the commission under this 484
chapter or division (L) of section 3772.03 of the Revised Code 485
are exempt from Chapter 2915. of the Revised Code. 486

Section 2. That existing section 3772.03 of the Revised 487
Code is hereby repealed. 488

Section 3. Notwithstanding sections 3774.02, 3774.03, and 489
3774.05 of the Revised Code as enacted by this act, fantasy 490
contest operators offering fantasy contests in this state on the 491
effective date of this act may continue to offer fantasy 492
contests without interruption, provided that the operator files 493
an application for licensure with the Ohio Casino Control 494
Commission within thirty days of the application's availability, 495
until the application for licensure has been approved or denied. 496