Testimony of Steve Brubaker on the Behalf of

The Small Businesses of Fantasy Sports Trade Association

Before the Ohio Senate Finance Committee

Regarding House Bill 132

September 19, 2017

Good afternoon Chairman Oelslager, Vice Chairman Manning, Ranking Member Skindell and members of the Senate Finance Committee.

My name is Steve Brubaker, I am the Executive Director of the Small Businesses of Fantasy Sports Trade Association.

As our name suggests, we are a group of small businesses that operate paid entry fantasy sports contests on the internet.

I come before you today in support of House Bill 132 offered by Representatives Dever and McColley.

In simple terms, House Bill 132 assures Ohio fantasy sports fans that the contests they play, and love, are being conducted by reputable companies that have the mindful eye of the Ohio Casino Control Commission watching out for them.

HB 132 provides a licensing structure that will identify for the Commission who these operators are and who controls them.

These contests are conducted over the internet. Players are sending their hard earned money into cyberspace and trusting that the folks on the receiving end are reputable companies that will actually pay out the winnings.

Licensing by the Commission, actually knowing who these companies are, provides a sense of comfort for players, that we believe will grow our player base over time. Some people just don’t trust the internet. Licensing provides comfort to folks that may not be early adopters, but may enter contests when they know that the State is looking out for them.

In addition to identifying the companies, HB 132 protects the players money by requiring providers to segregate player funds from operational funds. Most companies do this anyway, but players may not know that. By requiring that player money is held separate from company money, HB132 provides another level of oversight that will increase player comfort that their money is safe and that winnings will be paid out.

HB132 provides an additional layer of protection on top of the segregation of funds requirement. The bill requires companies to provide two types of audits: a compliance audit that proves that the companies are following the law and the regulatory requirements, and a financial audit that proves that the companies are financially sound.

For players, HB 132 provides assurances that the companies that are licensed by the Commission have been vetted and are reputable, and that player money is safely segregated and audited. As I noted previously, we think these items will actually grow our player base as folks that may have been apprehensive about playing online contests, will feel comfortable entering contests because the State of Ohio is looking out for their best interests.

For small fantasy sports businesses, the companies that I represent, these two player protections come at a significant cost and as with any small business my members have to decide if that cost is too great for them to seek licensure in Ohio. Some will not. The cost of the regulatory burden may be too high.

The two main concerns for small businesses are the cost of licensure – the fee and the cost of compliance - and the cost of the audits.

The bill allows the Commission to set the fee for licensure and renewal at no more than $10,000 annually and limits the term of the license at up to three years.

For small companies, the licensure fee is a major concern. Because we won’t know until the Commission submits their rule proposal how much each company will have to pay to become licensed. We are hopeful that the Commission will take into consideration the size of the company when making their decision to set the fee.

Our recommendation would be for the commission to use a percentage of gross income – entry fees less winnings paid. Or a graduated fee structure based on the size of the company that starts low for the small companies and increases as the companies grow their businesses.

I have met with the Commission to discuss HB132 and found them to be very reasonable and am hopeful that small companies can be accommodated in the rule. We just won’t know until the rule proposal is submitted.

If the small companies will be required to pay the same fee as the two giant companies, there will be very few small companies seeking licensure in Ohio.

Besides the cost of licensure, the second area of concern for small businesses are the cost of the required audits.

The bill requires two types of audits - financial audits that must be submitted annually, and compliance audits that must be submitted no less than once every three years, but could be required every year.

Small companies are less concerned with the financial audit requirement because they can do a single financial audit of their company that they can submit to all fifty states. But, they are very concerned about the cost of the compliance audit because compliance audits are specific to each state. If all 50 states required annual compliance audits, most small companies would go out of businesses.

We have raised this concern with the Commission and the House sponsors and the original proposal was modified from annual compliance audits to compliance audits covering one to three years. Every three years is better than every year, but annual compliance audits are still a possibility under the bill.

House Bill 132 has two undefined variables. The cost of the licensing fee and the frequency of compliance audits. The total cost of those two variables will determine the number of small companies that will be able to operate in Ohio. We are hopeful that we can make our case to the Commission during the rulemaking process so Ohio can have plenty of competition in the fantasy sports marketplace.

To recap, The Small Businesses of Fantasy Sports Trade Association seeks your support for the passage of HB132. We believe the player protections contained in the bill will bring new players to the market that may otherwise remain on the sidelines because they are uneasy about participating in contests in an unregulated environment. We are also concerned about the impact of the cost of that regulation on the small companies in our organization, and we will deal with the cost issues in the rulemaking process.

Thank you for your time and consideration.