

# AN ACT

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

*Be it enacted by the General Assembly of the State of Ohio:*

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

Sec. 3772.03. (A) To ensure the integrity of casino gaming, the commission shall have authority to complete the functions of licensing, regulating, investigating, and penalizing casino operators, management companies, holding companies, key employees, casino gaming employees, and gaming-related vendors. The commission also shall have jurisdiction over all persons participating in casino gaming authorized by Section 6(C) of Article XV, Ohio Constitution, and this chapter.

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

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

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

- (1) The prevention of practices detrimental to the public interest;
- (2) Prescribing the method of applying, and the form of application, that an applicant for a license under this chapter must follow as otherwise described in this chapter;
- (3) Prescribing the information to be furnished by an applicant or licensee as described in section 3772.11 of the Revised Code;
- (4) Describing the certification standards and duties of an independent testing laboratory certified under section 3772.31 of the Revised Code and the relationship between the commission, the laboratory, the gaming-related vendor, and the casino operator;
- (5) The minimum amount of insurance that must be maintained by a casino operator, management company, holding company, or gaming-related vendor;
- (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;
- (7) The design of gaming supplies, devices, and equipment to be distributed by gaming-

related vendors;

(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;

(9) Tournament play in any casino facility;

(10) Establishing and implementing a voluntary exclusion program that provides all of the following:

(a) Except as provided by commission rule, a person who participates in the program shall agree to refrain from entering a casino facility.

(b) The name of a person participating in the program shall be included on a list of persons excluded from all casino facilities.

(c) Except as provided by commission rule, no person who participates in the program shall petition the commission for admittance into a casino facility.

(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 operator and the agents and employees of the casino operator for purposes of enforcement and to other entities, upon request of the participant and agreement by the commission.

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

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

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

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

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

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

(14) The chips, tokens, tickets, electronic cards, or similar objects that may be purchased by means of an agreement under which credit is extended to a wagerer by a casino operator;

(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.

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

(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;

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

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

(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 requirements for the provision of security at and surveillance of casino facilities;

(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;

(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;

(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;

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

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

(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;

(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, 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 ejection or exclusion of and a gaming agent may eject a person from a casino facility for any of the following reasons:

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

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

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

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

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

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

(1) A statement describing the receipts and disbursements of the commission;

(2) Relevant financial data regarding casino gaming, including gross revenues and disbursements made under this chapter;

(3) Actions taken by the commission;

(4) An update on casino operators', management companies', and holding companies' compulsive and problem gambling plans and the voluntary exclusion program and list;

(5) Information regarding prosecutions for conduct described in division (H) of section 3772.99 of the Revised Code, including, but not limited to, the total number of prosecutions commenced and the name of each person prosecuted;

(6) Any additional information that the commission considers useful or that the governor, president or minority leader of the senate, speaker or minority leader of the house of representatives, or joint committee on gaming and wagering requests.

(K) To ensure the integrity of skill-based amusement machine operations, the commission shall have jurisdiction over all persons conducting or participating in the conduct of skill-based

amusement machine operations authorized by this chapter and Chapter 2915. of the Revised Code, including the authority to complete the functions of licensing, regulating, investigating, and penalizing those persons in a manner that is consistent with the commission's authority to do the same with respect to casino gaming. To carry out this division, the commission may adopt rules under Chapter 119. of the Revised Code, including rules establishing fees and penalties related to the operation of skill-based amusement machines.

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

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

Sec. 3774.01. As used in this chapter:

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

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

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

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

(2) All winning outcomes reflect the relative knowledge and skill of the fantasy contest players and are determined predominantly by accumulated statistical results of the performance of managing rosters of athletes whose performance directly corresponds with the actual performance of athletes in professional sports competitions.

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

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

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

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

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

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

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

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

(3) Holds voting rights with the power to vote ten per cent or more of the outstanding voting rights of a fantasy contest operator.

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

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

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

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

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

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

(2) Unless a license issued under this chapter is suspended, expires, or is revoked, a license may be renewed. After a determination by the commission that the licensee is in compliance with this chapter and rules adopted by the commission under this chapter or division (L) of section 3772.03 of the Revised Code, the license shall be renewed for not more than three years, as determined by commission rule adopted under this chapter or division (L) of section 3772.03 of the Revised Code.

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

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

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

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

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

- (a) Individuals under eighteen years of age;
- (b) Individuals who, upon request, seek to restrict themselves from entering fantasy contests.
- (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.
- (4) Prescribing requirements related to beginning players and highly experienced players;
- (5) Prescribing requirements for internal procedures, including at a minimum, procedures for all of the following:
  - (a) Complying with all applicable state and federal requirements to protect the privacy and online security of fantasy contest players and their accounts;
  - (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;
  - (c) Providing fantasy contest players with access to information on playing responsibly and seeking assistance for compulsive behavior;
  - (d) Establishing the maximum number of entries that a fantasy contest player may submit to each fantasy contest;
  - (e) Any other procedure that the commission determines necessary in the rules adopted under this chapter or division (L) of section 3772.03 of the Revised Code.
- (6) Requiring a license application to require an applicant for a fantasy contest operator license to designate at least one key employee as a condition to obtain a license;
- (7) Establishing the length of time, which shall be not more than three years, that a fantasy contest operator license and renewal license shall be valid;
- (8) Establishing the fee for obtaining or renewing a license, which shall not exceed ten thousand dollars for each year of a license and a total of thirty thousand dollars for a three-year license, and which may be paid in equal installments on an annual basis over the term of the license; and
- (9) Any other procedure or thing that the commission determines necessary to ensure the integrity of fantasy contests.
- (B) The commission may not adopt rules to do either of the following:
  - (1) Limit or regulate the statistical makeup of a game or contest, or the digital platform of a fantasy contest operator; or
  - (2) Require licensure of any persons other than fantasy contest operators, holding companies, or management companies.
- (C) Nothing in this section prohibits the commission from adopting rules establishing consumer protections.

Sec. 3774.04. (A) Each fantasy contest operator shall retain and maintain in a place secure from theft, loss, or destruction all of the records required to be maintained by this chapter for at least

five years from the date of the record's creation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3774.08. (A) Any information concerning the fantasy contest operator's internal procedures, personal information, financial information, trade secret information, and information



protected by the attorney-client privilege submitted, collected, or gathered in relation to an application or license under this chapter is confidential and not subject to disclosure by any state agency or political subdivision as a record under section 149.43 of the Revised Code.

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

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

SECTION 2. That existing section 3772.03 of the Revised Code is hereby repealed.

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

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_