

**As Passed by the Senate**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Sub. H. B. No. 132**

**Representatives Dever, McColley**

**Cosponsors: Representatives Blessing, Cera, Seitz**

**Senators Burke, Eklund, Oelslager**

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**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