

1 AN ACT relating to fantasy contests and making an appropriation therefor.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. KRS CHAPTER 239 IS ESTABLISHED AND A NEW  
4 SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

5 *As used in this chapter unless the context requires otherwise:*

6 *(1) "Adjusted gross revenue" means, for each fantasy contest, the amount equal to*  
7 *the total of all entry fees that a registrant collects from all participants, less the*  
8 *total of all sums paid out as winnings to all participants, multiplied by the*  
9 *location percentage for the Commonwealth;*

10 *(2) "Cabinet" means the Public Protection Cabinet;*

11 *(3) "Confidential information" means information related to the play of a fantasy*  
12 *contest by fantasy contest participants obtained as a result of or by virtue of a*  
13 *person's employment;*

14 *(4) "Entry fee" means the cash or cash equivalent that is required to be paid by a*  
15 *fantasy contest participant to a fantasy contest operator in order to participate in*  
16 *a paid fantasy contest;*

17 *(5) "Fantasy contest" means any fantasy or simulated game or contest that meets the*  
18 *following conditions:*

19 *(a) The values of all prizes and awards offered to winning participants are*  
20 *established and made known to the participants in advance of the contest;*

21 *(b) All winning outcomes reflect the relative knowledge and skill of the*  
22 *participants and shall be determined predominantly by accumulated*  
23 *statistical results of the performance of individuals, including athletes in the*  
24 *case of sports events; and*

25 *(c) No winning outcome is based on:*

26 *1. Randomized or historical events;*

27 *2. The score, point spread, or any performance or performances of any*

- 1                   single actual team or combination of such teams; or  
2                   3. Solely on any single performance of an individual athlete or  
3                   participant in any single actual event;  
4                   (6) "Fantasy contest operator" means a person or entity that offers a platform for  
5                   the playing of fantasy contests, administers one (1) or more fantasy contests with  
6                   an entry fee, and awards a prize of value;  
7                   (7) "Fantasy contest participant" means a person who participates in a fantasy  
8                   contest offered by a fantasy contest operator;  
9                   (8) "Immediate family" means a person's parents, grandparents, spouse, siblings,  
10                   children, grandchildren, or any individual residing in a home occupied by the  
11                   person as a primary residence;  
12                   (9) "Location percentage" means, for each fantasy sports contest, the percentage,  
13                   rounded to the nearest tenth of a percent (0.1%), of the total entry fees collected  
14                   from participants located in the Commonwealth divided by the total entry fees  
15                   collected from all participants in the fantasy sports contest;  
16                   (10) "Principal stockholder" means any person who, individually or in concert with  
17                   his or her spouse and immediate family members, beneficially owns or controls,  
18                   directly or indirectly, fifteen percent (15%) or more of the equity ownership of a  
19                   fantasy contest operator or who, in concert with his or her spouse and immediate  
20                   family members, has the power to vote or cause the vote of fifteen percent (15%)  
21                   or more of any such operator;  
22                   (11) "Registered fantasy contest operator" means a fantasy contest operator that has  
23                   been issued a valid registration by the cabinet; and  
24                   (12) "Secretary" means the secretary of the Public Protection Cabinet.

25                   ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO  
26 READ AS FOLLOWS:

- 27                   (1) No fantasy contest operator shall offer a fantasy contest to residents of the

1 Commonwealth without a valid registration issued by the cabinet, except that  
 2 fantasy sports contest operators with fewer than one hundred (100) participants  
 3 located in the Commonwealth in a calendar year shall be exempt from this  
 4 requirement.

5 (2) Any person or entity seeking to be registered as a fantasy sports operator shall  
 6 submit an application to the cabinet on a form prescribed by the cabinet as  
 7 promulgated in an administrative regulation, accompanied by payment of the  
 8 required fee established in Section 4 of this Act.

9 (3) The applicant shall provide the following information to the cabinet to ensure the  
 10 applicant meets the requirements for registration:

11 (a) The name of the applicant;

12 (b) The location of the applicant's principal place of business;

13 (c) A complete disclosure of ownership of the applicant including all directors,  
 14 officers, and principal stockholders;

15 (d) A designation of the responsible party who is the agent for the contest  
 16 operator for all communications with the cabinet;

17 (e) 1. The criminal record of all directors, officers, and principal  
 18 stockholders of the applicant.

19 2. An applicant may not be eligible for registration as a fantasy contest  
 20 operator or for licensure renewal if the applicant or any of its officers,  
 21 directors, general partners, or members has been convicted of or has  
 22 entered a plea of nolo contendere or guilty to a felony; and

23 (f) Any other documentation the cabinet may require.

24 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO  
 25 READ AS FOLLOWS:

26 (1) The cabinet shall consider all applications for registration and shall issue a valid  
 27 registration to an applicant that meets the criteria set forth in this chapter and

- 1       any administrative regulations promulgated by the cabinet.
- 2       (2) The cabinet shall have thirty (30) days after receiving an initial application to  
3       issue or deny the application.
- 4       (3) The cabinet shall allow fantasy sports operators that are operating in the  
5       Commonwealth as of January 1, 2017, to continue to lawfully operate until sixty  
6       (60) days after applications for registration are made available to the public by  
7       the cabinet.
- 8       (4) Operators who have applied for registration during that sixty (60) day period may  
9       continue to operate while the application is pending. Operators who have not  
10       applied for registration shall cease operations in this state by the expiration of the  
11       sixty (60) day period. The initial registration shall be valid for one (1) year from  
12       the date of issuance.

13       ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 239 IS CREATED TO  
14 READ AS FOLLOWS:

- 15       (1) The initial registration fee and annual renewal fee for a fantasy contest operator  
16       shall be five thousand dollars (\$5,000).
- 17       (2) (a) The cabinet shall collect six percent (6%) of the adjusted gross revenue.  
18       (b) If six percent (6%) of the adjusted gross revenue for the preceding twelve  
19       (12) months exceeds five thousand dollars (\$5,000), then the cabinet shall  
20       credit the initial registration fee or annual renewal fee against six percent  
21       (6%) of the adjusted gross revenue.
- 22       (3) The cabinet may revoke, deny, or suspend the registration of a fantasy contest  
23       operator if it finds that:
- 24       (a) Any partner, member, officer, principal stockholder, or director of the  
25       operator has been convicted of a felony in this state, a felony in another  
26       state which would be a felony if committed in this state, or a felony under  
27       the laws of the United States. For purposes of this paragraph, the term

- 1           "convicted" means having been found guilty, regardless of adjudication of  
2           guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty  
3           or nolo contendere; or
- 4           (b) Any fantasy contest operator has:
- 5                 1. Violated any order of the secretary or any of the provisions set forth in  
6                 this chapter;
- 7                 2. Failed to meet the requirements for licensure under this chapter; or  
8                 3. Used fraud, misrepresentation, or deceit in applying for or attempting  
9                 to apply for a registration or otherwise in operating or offering to  
10                operate a fantasy contest.
- 11           (4) If it appears to the secretary, based upon credible evidence as presented in a  
12           written complaint, that a person is operating or offering to operate a fantasy  
13           contest without being registered, the secretary may issue an order to cease and  
14           desist the activity.
- 15           (5) The secretary shall set forth in the order:
- 16                 (a) The statutes and administrative regulations alleged to have been violated;  
17                 (b) The facts alleged to have constituted the violation; and  
18                 (c) The requirement that all unauthorized practices immediately cease.
- 19           (6) Within ten (10) days after service of the order to cease and desist, the person may  
20           request a hearing on the question of whether acts or practices in violation of this  
21           section have occurred. The hearing shall be conducted pursuant to KRS Chapter  
22           13B.
- 23           (7) Officers and directors of registered fantasy contest operators along with their  
24           immediate family are prohibited from competing in any fantasy contest offered by  
25           any fantasy contest operator in which the operator offers a cash prize.
- 26           (8) A registered fantasy contest operator shall implement commercially reasonable  
27           procedures for fantasy contests with an entry fee that are intended to:

- 1        (a) Prevent the fantasy contest operator, its employees, and the immediate  
2            family of employees from competing in any fantasy contest with a cash prize  
3            offered by any fantasy contest operator;
- 4        (b) Prevent sharing of confidential information that could affect fantasy  
5            contest play with third parties until such information is made publicly  
6            available;
- 7        (c) Verify that each fantasy contest participant in each fantasy contest is  
8            eighteen (18) years of age or older;
- 9        (d) Prevent an individual who is a participant or game official in an actual  
10           sporting event or competition from participating in any fantasy sports  
11           contest that is determined in whole or in part on the performance of that  
12           individual, the individual's actual team, or the accumulated statistical  
13           results of the sporting event or competition in which the individual is a  
14           participant or contest official;
- 15        (e) Allow an individual to restrict himself or herself from entering a fantasy  
16           contest upon request and provide reasonable steps to prevent the person  
17           from entering such fantasy contests offered by the fantasy contest operator;
- 18        (f) Disclose the number of entries that a fantasy contest participant may submit  
19           to each fantasy contest;
- 20        (g) Provide reasonable steps to prevent participants from submitting more than  
21           the allowable number of entries;
- 22        (h) 1. In any contest involving more than one hundred (100) entries, prevent  
23           a participant from submitting:  
24           a. Three percent (3%) of all entries; or  
25           b. One hundred fifty (150) entries;  
26           whichever is less.
- 27        2. Notwithstanding subparagraph 1. of this paragraph, a registered

- 1 fantasy contest operator may establish contests in which there is no  
2 restriction on the number of entries, provided that:
- 3 a. The operator clearly discloses that there are no limits on the  
4 number of entries by each player in the contest; and
- 5 b. That the cost of participating in the contest is fifty dollars (\$50)  
6 or more per entry;
- 7 (i) Segregate participants' funds from operational funds and  
8 maintain a reserve in the form of cash, cash equivalents, an  
9 irrevocable letter of credit, a bond, an escrow account approved  
10 by the cabinet, or a combination thereof, in the amount of the  
11 deposits in participants' accounts for benefit and protection of  
12 the funds held in those accounts;
- 13 (j) Distinguish highly experienced participants and beginner participants and  
14 ensure that highly experienced participants are conspicuously identified as  
15 such to all participants;
- 16 (k) Prohibit the use of scripts in fantasy contests that give a participant an  
17 unfair advantage over other participants and make all authorized scripts  
18 readily available to all fantasy contest participants;
- 19 (l) Clearly and conspicuously disclose all rules that govern its contests,  
20 including the material terms of each promotional offer at the time the offer  
21 is advertised; and
- 22 (m) Use technologically reasonable measures to limit each fantasy contest  
23 participant to one (1) active account with that operator.
- 24 (9) A registered fantasy contest operator shall not conduct, operate, or offer a fantasy  
25 contest that:
- 26 (a) Utilizes:
- 27 1. Video or mechanical reels or symbols or any other depictions of slot

1 machines, poker, blackjack, craps, or roulette; or

2 2. Any device that qualifies as or replicates contest activities that  
3 constitute gaming; or

4 (b) Includes a university, college, high school, or youth athletic contest or  
5 events.

6 (10) (a) A fantasy contest operator offering fantasy contests shall submit its records  
7 to a certified public accountant approved by the cabinet using a method  
8 authorized by state law to perform an annual independent audit consistent  
9 with the standards of the American Institute of Certified Public  
10 Accountants to ensure compliance with all of the requirements in this  
11 chapter.

12 (b) The fantasy contest operator shall pay all costs of the audit. The audit shall  
13 cover a one (1) year period from the date the registration is granted or  
14 renewed.

15 (11) (a) Each fantasy contest operator shall keep daily records of its operations and  
16 shall maintain the records for at least three (3) years.

17 (b) The records shall sufficiently detail all financial transactions to determine  
18 compliance with the requirements of this chapter and shall be available for  
19 audit and inspection by the cabinet during the fantasy contest operator's  
20 regular business hours.

21 (12) Any person, firm, corporation, association, agent, or employee who knowingly  
22 violates any provision of this chapter shall be liable for a civil penalty of not more  
23 than one thousand dollars (\$1,000) for each act or omission, which constitutes a  
24 violation, not to exceed twenty-five thousand dollars (\$25,000) for continuing  
25 violations arising out of the same transaction or occurrence, which shall accrue  
26 to the Commonwealth and may be recovered in a civil action brought by the  
27 cabinet. Nothing in this chapter shall deprive an aggrieved participant of any



1        personal right of redress.

2        (13) The cabinet shall promulgate administrative regulations for the operation of  
3        fantasy contests as necessary to enforce the provisions of this chapter, but the  
4        cabinet shall not adopt rules limiting or regulating:

5        (a) Rules or the administration of an individual contest or contest;

6        (b) The statistical makeup of a contest or contest; or

7        (c) The digital platform of an operator.

8        (14) The provisions of KRS Chapters 230 and 528 shall not apply to fantasy contests  
9        operated in accordance with the provisions of this chapter.