

# HOUSE BILL No. 6420

October 2, 2018, Introduced by Rep. Iden and referred to the Committee on Regulatory Reform.

A bill to regulate the conduct of fantasy contests; to protect Michigan participants in fantasy contests; to require licensing of the operators of fantasy contests; to impose fees on the operators of fantasy contests; to provide for the powers and duties of certain state governmental officers and entities; to prohibit violations of this act; and to prescribe civil sanctions.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "fantasy contests consumer protection act".

3           Sec. 2. As used in this act:

4           (a) "Athletic event" means a real world professional,  
5 collegiate, or nationally recognized sports game, contest, or  
6 competition that involves the physical exertion and skill of the  
7 participating individual athletes, as to which each participant is

1 physically present at the location in which the sports game,  
2 contest, or competition occurs, and the outcome of the sports game,  
3 contest, or competition is directly dependent on the performance of  
4 the participating athletes.

5 (b) "Board" means the Michigan gaming control board created  
6 under section 4 of the Michigan gaming control and revenue act,  
7 1996 IL 1, MCL 432.204.

8 (c) "Entry fee" means a cash or cash equivalent amount that a  
9 fantasy contest operator requires to be paid by a fantasy contest  
10 player to participate in a fantasy contest.

11 (d) "Fantasy contest" means a simulated game or contest with  
12 an entry fee that meets all of the following conditions:

13 (i) No fantasy contest team is composed of the entire roster  
14 of a real world sports team. No fantasy contest team is composed  
15 entirely of individual athletes who are members of the same real  
16 world sports team.

17 (ii) Each prize and award or the value of all prizes and  
18 awards offered to winning fantasy contest players is made known to  
19 the fantasy contest players in advance of the fantasy contest.

20 (iii) Winning outcomes reflect the relative knowledge and  
21 skill of the fantasy contest players and are determined by the  
22 aggregated statistical results of the performance of multiple  
23 individual athletes selected by the fantasy contest player to form  
24 the fantasy contest team, whose individual performances in the  
25 fantasy contest directly correspond with the actual performance of  
26 those athletes in the athletic event in which those individual  
27 athletes participated.

1           (iv) A winning outcome is not based on randomized or  
2 historical events, or on the score, point spread, or performance in  
3 an athletic event of a single real-world sports team, a single  
4 athlete, or any combination of real-world sports teams.

5           (v) The fantasy sports contest does not constitute or involve  
6 and is not based on any of the following:

7           (A) Racing involving animals.

8           (B) A game or contest ordinarily offered by a horse track or  
9 casino for money, credit, or any representative of value, including  
10 any races, games, or contests involving horses or that are played  
11 with dice.

12           (C) A slot machine or other mechanical, electromechanical, or  
13 electronic device or equipment, including computers and other  
14 cashless wagering systems.

15           (D) Poker, blackjack, faro, monte, keno, bingo, fan tan,  
16 twenty one, seven and a half, Klondike, craps, chuck a luck,  
17 Chinese chuck a luck, Wheel of Fortune, Chemin de Fer, Baccarat,  
18 Pai Gow, Beat the Banker, Panguingui, roulette, or other banking or  
19 percentage games.

20           (E) Any other game or device authorized by the board under the  
21 Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to  
22 432.226.

23           (vi) A fantasy contest must not be based on a high school or  
24 youth sporting event, or any other event that is not an athletic  
25 event.

26           (e) "Fantasy contest operator" means a person that operates,  
27 carries on, conducts, maintains, exposes, or offers for play

1 fantasy contests and awards prizes of value.

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

5 (g) "Fantasy contest player" means an individual who  
6 participates in a fantasy contest offered by a fantasy contest  
7 operator.

8 (h) "Fantasy contest team" means the simulated team composed  
9 of multiple individual athletes, each of whom is a member of a real  
10 world sports team, that a fantasy contest player selects to compete  
11 in a fantasy contest.

12 (i) "Highly experienced player" means a fantasy contest player  
13 who has done at least 1 of the following:

14 (i) Entered more than 1,000 fantasy contests offered by a  
15 single fantasy contest operator.

16 (ii) Won more than 3 prizes valued at \$1,000.00 each or more  
17 from a single fantasy contest operator.

18 (j) "Holding company" means a corporation, firm, partnership,  
19 limited partnership, limited liability company, trust, or other  
20 form of business organization that is not a natural person and that  
21 directly or indirectly does either of the following:

22 (i) Holds an ownership interest of 5% or more, as determined  
23 by the board, in a fantasy contest operator.

24 (ii) Holds voting rights with the power to vote 5% or more of  
25 the outstanding voting rights of a fantasy contest operator.

26 (k) "Key employee" means an employee of a fantasy contest  
27 operator who has the power to exercise significant influence over

1 decisions concerning the fantasy contest operator.

2 (l) "Licensed fantasy contest operator" means a fantasy  
3 contest operator that is licensed by the board under this act.

4 (m) "Management company" means a person retained by a fantasy  
5 contest operator to manage a fantasy contest platform and provide  
6 general administration and other operational services.

7 (n) "Person" means an individual, partnership, corporation,  
8 association, or other legal entity. Person includes a sovereign  
9 tribal government and its business entities.

10 (o) "Protected information" means information related to the  
11 playing of fantasy contests by fantasy contest players that is  
12 obtained by a fantasy contest operator.

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

17 Sec. 3. Any other law that is inconsistent with this act does  
18 not apply to fantasy contests conducted by a fantasy contest  
19 operator in accordance with this act.

20 Sec. 4. (1) Except as otherwise provided in this section, a  
21 person shall not offer fantasy contests in this state unless the  
22 person is a licensed fantasy contest operator.

23 (2) An individual may offer, solely from his or her private  
24 residence, 1 or more fantasy contests, if none of the contests are  
25 made available to the general public, each of the contests is  
26 limited to no more than 15 total fantasy contest players, and the  
27 individual collects no more than \$10,000.00 in total entry fees for

1 all fantasy contests offered in a calendar year, at least 95% of  
2 which entry fees are awarded to the fantasy contest players.

3 (3) A person that met the definition of fantasy contest  
4 operator in this state on May 1, 2017 may continue offering fantasy  
5 contests until the fantasy contest operator is issued or denied a  
6 license under this act if the person applies for a license within  
7 60 days after the date the application for the license is made  
8 available by the board.

9 (4) A casino licensee licensed by the board under the Michigan  
10 gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226,  
11 may offer and conduct fantasy contests games without applying for  
12 or holding a license under this act.

13 (5) To ensure the integrity of fantasy contests games, the  
14 board has jurisdiction over each person involved in the conduct of  
15 a fantasy contest. The board may promulgate rules related to the  
16 conduct of fantasy contests, including rules setting forth  
17 penalties for violations of this act or any rules promulgated under  
18 this act.

19 (6) A person seeking to be licensed as a fantasy contest  
20 operator shall submit an application, with the applicable fee, to  
21 the board. The applicant shall provide sufficient documentation to  
22 the board to ensure that the applicant meets the requirements for  
23 licensure as determined by the board, including, but not limited  
24 to, documentation of all of the following:

25 (a) The name of the applicant.

26 (b) The location of the applicant's principal place of  
27 business.

1 (c) The applicant's telephone number.

2 (d) The applicant's Social Security number or, if applicable,  
3 the applicant's federal tax identification number.

4 (e) The name and address of each person that holds a 5% or  
5 greater ownership interest in the applicant or in shares of the  
6 applicant.

7 (f) The applicant's criminal record, if any, or, if the  
8 applicant is a business entity, any criminal record of an  
9 individual who is a director, officer, or key employee of, or who  
10 has a 15% or greater ownership interest in, the applicant.

11 (g) Any ownership interest that a director, officer, key  
12 employee, or individual owner of at least 5% of the applicant holds  
13 in a person that is or was a licensed fantasy contest operator or  
14 similar entity.

15 (h) An identification of any business, including, if  
16 applicable, the state of incorporation or registration, in  
17 which an applicant, director, officer, key employee, or individual  
18 owner of over 5% or greater has an equity interest of 5% or more.

19 (i) Whether an applicant, director, officer, key employee, or  
20 individual owner of over 5% or greater has ever applied for or been  
21 granted any license, registration, or certificate issued by a  
22 licensing authority in this state or any other jurisdiction.

23 (j) Whether an applicant, director, officer, key employee, or  
24 individual owner of over 5% or greater has filed, or been served  
25 with, a complaint or other notice filed by a public body regarding  
26 the delinquency in payment of, or dispute over filings concerning,  
27 the payment of any tax required under federal, state, or local law,

1 including the amount, the type of tax, the taxing agency, and the  
2 time.

3 (k) A description of any physical facility operated by the  
4 applicant in this state, the employees who work at the facility,  
5 and the nature of the business conducted at the facility.

6 (l) Information sufficient to show, as determined by the  
7 department, that the applicant can meet the requirements of  
8 procedures submitted by the applicant under this act and under any  
9 rules promulgated under this act.

10 (7) The board may require licensure of a holding company,  
11 management company, or any other person it considers sufficiently  
12 connected to the fantasy game operator if that licensure is  
13 necessary to preserve the integrity of fantasy contests and protect  
14 fantasy contest players.

15 (8) A license issued under this section is valid for 1 year.  
16 The department shall renew a license each year if the applicant  
17 demonstrates continued eligibility for licensure under this act and  
18 pays the renewal fee. Notwithstanding this subsection, the board  
19 may investigate a licensee at any time the board determines it is  
20 necessary to ensure that the licensee remains in compliance with  
21 this act and the rules promulgated under this act.

22 (9) The initial license fee is \$50,000.00. The annual license  
23 renewal fee is \$20,000.00. The board may assess investigative costs  
24 if the cost of a licensure investigation exceeds the amount of the  
25 license or renewal fee.

26 Sec. 5. (1) As a condition of licensure, a fantasy contest  
27 operator must submit to, and receive approval from, the board



1 commercially reasonable procedures and internal controls intended  
2 to accomplish all of the following:

3 (a) Prevent the fantasy contest operator, its owners,  
4 directors, officers, and employees, and any relative of any of  
5 these individuals living in the same household, from participating  
6 in a fantasy contest game other than a fantasy contest offered by  
7 the fantasy contest operator for which participation is limited to  
8 the persons described in this subdivision.

9 (b) Prevent the employees or agents of the fantasy contest  
10 operator from sharing protected information with third parties  
11 unless the protected information is otherwise made publicly  
12 available.

13 (c) Prevent participants and officials in an athletic event  
14 from participating in a fantasy contest that is based on the  
15 athletic event.

16 (d) Establish the number of entries a single fantasy contest  
17 player may enter in a single fantasy contest and take reasonable  
18 steps to prevent fantasy contest players from submitting more than  
19 the allowable number of entries.

20 (e) Identify each highly experienced fantasy contest player by  
21 a symbol attached to the highly experienced fantasy contest  
22 player's username.

23 (f) Offer some fantasy contests that are open only to players  
24 other than highly experienced fantasy contest players.

25 (g) Either of the following:

26 (i) Segregate fantasy contest players' money from operational  
27 money.

1           (ii) Maintain a reserve in the form of cash, cash equivalents,  
2 an irrevocable letter of credit, a bond, or a combination of these,  
3 the aggregate amount of which exceeds the total dollar value amount  
4 of deposits in the fantasy contest players' accounts, and which  
5 reserve must not be used for operational activities.

6           (h) Ensure compliance with the applicable state and federal  
7 requirements to protect privacy and online security of a fantasy  
8 contest player and the fantasy contest player's account.

9           (i) Otherwise ensure the integrity of fantasy contests.

10           (2) A licensed fantasy contest operator shall comply with the  
11 procedures and internal controls that are submitted to the board  
12 under subsection (1) and approved by the board. A licensed fantasy  
13 contest operator may make technical adjustments to its procedures  
14 and internal controls if the adjustments are not material and it  
15 notifies the board in advance and continues to meet or exceed the  
16 standards required by this act and any rules promulgated by the  
17 board.

18           (3) Procedures submitted to the department under subsection  
19 (1) are confidential and privileged, are not subject to disclosure  
20 under the freedom of information act, 1976 PA 442, MCL 15.231 to  
21 15.246, are not subject to subpoena, and are not subject to  
22 discovery or admissible in evidence in a private civil action.

23           Sec. 6. By July 1 of each year, a licensed fantasy contest  
24 operator shall contract with a certified public accountant to  
25 perform an independent audit of the financial condition of the  
26 licensed fantasy contest operator's total operations for the  
27 previous fiscal year and to ensure compliance with section 5(1)(g)

1 and for any other purpose the board considers appropriate. A  
2 licensed fantasy contest operator shall submit the audit results  
3 under this section to the board not later than 180 days after the  
4 end of the fantasy contest operator's fiscal year. The results of  
5 an audit submitted to the board under this section is confidential  
6 and privileged, is not subject to disclosure under the freedom of  
7 information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject  
8 to subpoena, and is not subject to discovery or admissible in  
9 evidence in a private civil action.

10 Sec. 7. A licensed fantasy contest operator shall prohibit an  
11 individual who is less than 18 years of age from participating in a  
12 fantasy contest.

13 Sec. 8. A licensed fantasy contest operator shall not do any  
14 of the following:

15 (a) Allow the use of a script unless the script is made  
16 readily available to all fantasy contest players.

17 (b) Employ false, deceptive, or misleading advertising, or  
18 advertising that is not based on fact.

19 (c) Target, in advertising or promotions, either of the  
20 following:

21 (i) Individuals who have restricted themselves from entering a  
22 fantasy contest under the procedures established by the department.

23 (ii) Individuals who are less than 18 years of age.

24 Sec. 9. (1) A fantasy contest must not be offered on, at, or  
25 from any of the following:

26 (a) A kiosk or machine physically located in a retail business  
27 location, bar, restaurant, or other commercial establishment.

1 (b) A place of public accommodation.

2 (c) A facility owned, operated, or occupied by a private club,  
3 association, or similar membership-based organization.

4 (2) This section does not apply to a casino licensee licensed  
5 by the board under the Michigan gaming control and revenue act,  
6 1996 IL 1, 432.201 to 432.226.

7 Sec. 10. (1) A licensed fantasy contest operator shall make  
8 available on the licensed fantasy contest operator's website  
9 information about resources relating to compulsive gaming behavior  
10 including a telephone number or link to information on compulsive  
11 gaming behavior and where to seek assistance for compulsive gaming  
12 behavior.

13 (2) A licensed fantasy contest operator shall make available,  
14 by website, telephone, or online chat, a means to allow an  
15 individual to irrevocably restrict the individual's ability to  
16 enter a fantasy contest and to select the length of time the  
17 restriction will be in effect.

18 (3) A licensed fantasy contest operator shall offer a fantasy  
19 contest player access to the fantasy contest player's playing  
20 history, including a summary of entry fees expended, games played,  
21 previous lineups, and prizes awarded.

22 Sec. 11. The board shall promulgate rules to implement this  
23 act under the administrative procedures act of 1969, 1969 PA 306,  
24 MCL 24.201 to 24.328, including, but not limited to, rules that  
25 address all of the following:

26 (a) Requiring a licensed game operator to implement  
27 commercially reasonable procedures to prohibit access to both of

1 the following:

2 (i) Individuals who request to restrict themselves from  
3 playing fantasy contests.

4 (ii) Individuals who are less than 18 years of age.

5 (b) Prescribing requirements related to beginning players and  
6 highly experienced players.

7 (c) Suspending the account of a fantasy contest player who  
8 violates this act or a rule promulgated under this act.

9 (d) Providing a fantasy contest player with access to  
10 information on playing responsibly and how to ask for assistance  
11 for compulsive gaming behavior.

12 (e) Requiring an applicant for a fantasy contest operator  
13 license to designate at least 1 key employee as a condition for  
14 obtaining a license.

15 (f) Any other rule the board determines is necessary to ensure  
16 the integrity of fantasy contests.

17 Sec. 12. (1) A licensed fantasy contest operator shall retain  
18 and maintain in a place secure from theft, loss, or destruction all  
19 of the records required to be maintained under this act and the  
20 rules promulgated under this act for at least 3 years after the  
21 date of the record's creation.

22 (2) A licensed fantasy contest operator shall organize all  
23 records under subsection (1) in a manner that enables the licensed  
24 fantasy contest operator to provide the board with the records.

25 (3) Information obtained under this section is confidential  
26 and privileged, is not subject to disclosure under the freedom of  
27 information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject

1 to subpoena, and is not subject to discovery or admissible as  
2 evidence in a private civil action.

3 Sec. 13. (1) The board may suspend, revoke, or restrict the  
4 license of a fantasy contest operator that violates this act, a  
5 rule promulgated under this act, or an order of the board.

6 (2) The board may impose a civil fine of not more than  
7 \$20,000.00 for a violation of this act, a rule promulgated under  
8 this act, or an order of the board.

9 (3) A fine imposed under this section is payable to this state  
10 and may be recovered in a civil action brought by the board.

11 Sec. 14. (1) A person shall not do any of the following:

12 (a) Except as otherwise provided in section 4, offer a fantasy  
13 contest in this state unless the person is licensed by the board.

14 (b) Knowingly make a false statement on an application for a  
15 license to be issued under this act.

16 (c) Knowingly provide false testimony to the board or any  
17 authorized representative of the board while under oath.

18 (2) The department shall not issue a license under this act to  
19 a person that violates subsection (1).

20 (3) A person that violates subsection (1)(a) is guilty of a  
21 felony punishable by imprisonment for not more than 5 years or a  
22 fine of not more than \$50,000.00, or both.

23 (4) The board may issue a cease and desist order and obtain  
24 injunctive relief against a person that violates this act.

25 Enacting section 1. This act takes effect 90 days after the  
26 date it is enacted into law.

27 Enacting section 2. This act does not take effect unless

**1** Senate Bill No. \_\_\_\_ or House Bill No. 6419 (request no. 07056'18) of  
**2** the 99th Legislature is enacted into law.