



**Legislative Council Staff**  
*Research Note*

Version: Final

Date: 9/12/2016

**Bill Number**

**House Bill 16-1404**

**Sponsors**

***Representatives Duran & Wist  
Senators Cooke & Guzman***

**Short Title**

***Regulate Fantasy Contests***

**Research Analyst**

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**Status**

This research note reflects the final version of the bill, which became effective on August 10, 2016.

**Summary**

The bill establishes the registration of small fantasy contest operators and the licensure of all other large fantasy contest operators by the Division of Professions and Occupations in the Department of Regulatory Agencies (DORA). The bill defines a fantasy contest operator as an entity that offers a fantasy contest with an entry fee and cash prize to the public.

**Registration.** Small fantasy contest operators are required to register with DORA and may not operate without being registered beginning July 1, 2017. Small fantasy contest operators:

- have fewer than 7,500 fantasy contest players in Colorado;
- may not be eligible to register if the applicant or its officers, directors, or partners have pled guilty or no contest to a felony;
- are not required to obtain a fingerprint background check; and
- may be investigated by DORA only if a complaint warrants an investigation.

**Licensing.** On or after July 1, 2017, a license is required for any large fantasy contest operator with more than 7,500 fantasy contest participants in Colorado to operate. DORA may set license and renewal fees. An applicant may not be eligible for a license if the applicant or any of its officers, director, or general partners has been convicted of or has entered a guilty or no contest plea to a felony. The bill specifies the information that must be provided on a license application and the required procedures for licensees to obtain a fingerprint criminal background check from

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the Colorado Bureau of Investigation.

**Operation of fantasy contests.** Fantasy contests may not include university, college, high school, or youth sporting events or utilize video or other depictions of slot machines, poker, blackjack, craps, or roulette. Fantasy contests may be conducted at a licensed gaming establishment, class B horse racing track, and a licensed facility at which pari-mutuel wagering occurs. In addition, the bill establishes certain restrictions and protections that registered and licensed operators must enact.

All fantasy contest operators must separate fantasy contests player funds from operational funds and maintain a reserve in the same amount as the deposits made to the accounts of fantasy players. Each operator must also maintain daily records of its operations for at least three years and contract with a third party to annually conduct an independent audit of the operator. The results of the audit must be submitted to DORA.

**Discipline.** DORA may deny, suspend, place on probation, issue a letter of admonition, or revoke a license or registration if a fantasy contest operator violates rules or provisions of the law, fails to meet the applicable requirements, or uses fraud to apply for a license or registration. DORA may appoint an administrative law judge to gather evidence and report findings and may issue a cease and desist order to licensed or registered fantasy contest operators. Any operator, including small fantasy contest operators, who violates the law may be assessed a civil penalty of up to \$1,000 per violation and DORA may file a civil action to collect the penalty.

The bill is repealed September 1, 2020, following the completion of a sunset review by DORA.

## Background

According to the Fantasy Sports Trade Association, more than 56 million people play fantasy sports in the U.S. and Canada. Fantasy sports include season-long fantasy sports contests, where an individual manages a fantasy team for an entire sports season, and daily fantasy sports contests, where an individual selects a fantasy team for a single day. The fantasy team's performance is based on the actual statistical performance of athletes during real-world games. Individuals often pay an entry fee to enter a fantasy team in a fantasy sports contest.

At least 20 states are currently considering legislation designed to regulate fantasy contests in some way. Online fantasy sports are expressly legal in at least seven states and illegal in at least thirteen states.

## House Action

**House Business Affairs and Labor Committee (April 5, 2016, and April 7, 2016).** The committee heard witness testimony on the bill on Tuesday, April 5, 2016. At the hearing, representatives from DraftKings and Head2Head Sports spoke in support of the bill. Four private citizens testified and requested specific changes to the bill. Representatives from DORA and the Colorado Division of Gaming responded to questions from the committee. At the committee hearing on Thursday, April 7, 2016, the committee referred the bill, unamended, to the House Finance Committee.

**House Finance Committee (April 20, 2016).** At the hearing, a representative from DraftKings testified in support of the bill. The committee adopted amendments L.008 and L.009, and referred the bill, as amended, to the House Appropriations Committee.

Amendment L.008:

- removed the creation of the Office of Fantasy Contests within DORA;
- defined "small fantasy contest operator" and required small fantasy contest operators to register with DORA by July 1, 2017;
- required fantasy contest operators that are not "small fantasy contest operators" be licensed by DORA by July 1, 2017;
- added several consumer protection measures that all fantasy contest operators must implement;
- revised the penalties and discipline measures for fantasy contest operators;
- moved the effective date of the bill back one year to July 1, 2017; and
- replaced the safety clause with a petition clause.

Amendment L.009 amended L.008 and specified that a small fantasy contest operator applicant may not be eligible for registration if the applicant or any of its officers, directors, or general partners has been convicted of, or has entered a guilty or no contest plea, to a felony.

**House Appropriations Committee (April 22, 2016).** The committee adopted amendment J.001 and referred the bill to the House Committee of the Whole. The amendment added an appropriation clause to the bill.

**House second reading (April 22, 2016).** The House adopted the House Finance and House Appropriations Committee reports and amendment No. 3, and passed the bill, as amended, on second reading. Amendment No. 3 required that all fees paid by fantasy contest operator licensees be sufficient to cover DORA's costs to administer the licensure of fantasy contest operators.

**House third reading (April 25, 2016).** The House passed the bill on third reading with no amendments.

## Senate Action

**Senate Finance Committee (May 3, 2016).** At the hearing, representatives from Head2Head Sports, Fantasy Sports for All, and DraftKings testified in support of the bill. A representative from Charlie Chedda's testified in opposition to the bill. The committee adopted amendments L.014 and L.015, and referred the bill, as amended, to the Senate Appropriations Committee.

Amendment L.014 specified that all of the regulations and registration requirements only apply to those fantasy contests with an entry fee. Amendment L.015 excluded small fantasy contest operators from having to conduct an annual audit, added a repeal date of September 1, 2020, and required that a sunset review be conducted prior to this date.

**Senate Appropriations Committee (May 5, 2016).** The committee referred the bill, unamended, to the Senate Committee of the Whole.

**Senate second reading (May 5, 2016).** The Senate adopted the Senate Finance Committee report and passed the bill, as amended, on second reading.

**Senate third reading (May 6, 2016).** The Senate passed the bill on third reading with no amendments.

## Relevant Research

Legislative Council Staff, *Regulation of Fantasy Sports Contests*, April 2016:  
<http://tinyurl.com/hbskrrr>