

By: Senator(s) Tindell, Moran, Simmons
(12th)

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2541

1 AN ACT TO CREATE THE FANTASY CONTEST ACT; TO CREATE NEW
2 SECTION 97-33-301, MISSISSIPPI CODE OF 1972, TO ENACT A SHORT
3 TITLE; TO CREATE NEW SECTION 97-33-303, MISSISSIPPI CODE OF 1972,
4 TO ENACT DEFINITIONS; TO CREATE NEW SECTION 97-33-305, MISSISSIPPI
5 CODE OF 1972, TO PROVIDE THAT THE OPERATOR OF A FANTASY CONTEST
6 WITH AN ENTRY FEE MUST IMPLEMENT CERTAIN PROCEDURES, CONTRACT WITH
7 A THIRD PARTY TO ANNUALLY PERFORM AN INDEPENDENT AUDIT TO ENSURE
8 COMPLIANCE WITH THIS ACT AND SUBMIT THE RESULTS TO THE INSURANCE
9 COMMISSIONER; TO CREATE NEW SECTION 97-33-307, MISSISSIPPI CODE OF
10 1972, TO REQUIRE THAT THE OPERATOR OF A FANTASY CONTEST WITH AN
11 ENTRY FEE MUST REGISTER UNDER THE ACT; TO CREATE NEW SECTION
12 97-33-309, MISSISSIPPI CODE OF 1972, TO PROVIDE A CIVIL PENALTY
13 FOR VIOLATIONS OF THIS ACT AND TO PROVIDE THAT CERTAIN CIVIL AND
14 CRIMINAL PENALTIES SHALL NOT APPLY TO FANTASY CONTEST OPERATORS
15 WHO COMPLY WITH THE PROVISIONS OF THIS ACT; TO CREATE NEW SECTION
16 97-33-311, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE GAMING
17 CONTROL ACT SHALL NOT APPLY TO FANTASY CONTESTS; TO AMEND SECTIONS
18 97-33-1 AND 97-33-8, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR
19 RELATED PURPOSES.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

21 **SECTION 1.** The following shall be codified as Section
22 97-33-301, Mississippi Code of 1972:

23 97-33-301. This act shall be known as the "Fantasy Contest
24 Act."

25 **SECTION 2.** The following shall be codified as Section
26 97-33-303, Mississippi Code of 1972:



27 97-33-303. As used in this act:

28 (a) "Confidential information" means information
29 related to the play of a fantasy contest by fantasy contest
30 players obtained as a result of or by virtue of a person's
31 employment.

32 (b) "Entry fee" means cash or cash equivalent that is
33 required to be paid by a fantasy contest player to a fantasy
34 contest operator to participate in a paid fantasy contest.

35 (c) "Fantasy contest" means a fantasy or simulated game
36 or contest in which:

37 (i) The value of all prizes and awards offered to
38 winning players is established and made known to the players in
39 advance of the contest;

40 (ii) All winning outcomes reflect the relative
41 knowledge and skill of the players and are determined
42 predominantly by accumulated statistical results of the
43 performance of individuals, including athletes in the case of
44 sporting events; and

45 (iii) Winning outcomes are not based on the score,
46 point spread, or any performance of any single actual sports team
47 or combination of such teams or solely on any single performance
48 of an individual athlete in any single actual sporting event.

49 (d) "Fantasy contest operator" means a person or entity
50 that offers fantasy contests with an entry fee and for a cash
51 prize to one hundred (100) or more members of the general public.



52 (e) "Fantasy contest player" or "player" means a person
53 who participates in a fantasy contest offered by a fantasy contest
54 operator.

55 (f) "Office" means the Commissioner of Insurance as set
56 forth in Section 83-1-3.

57 **SECTION 3.** The following shall be codified as Section
58 97-33-305, Mississippi Code of 1972:

59 97-33-305. (1) Fantasy contests with an entry fee are legal
60 in this state. A fantasy contest operator shall comply with the
61 provisions of this section.

62 (2) A fantasy contest operator must implement procedures for
63 fantasy contests with an entry fee that are intended to:

64 (a) Prevent employees of the fantasy contest operator,
65 and relatives living in the same household with the employees,
66 from competing in public fantasy contests offered by a fantasy
67 contest operator in which the operator offers a cash prize;

68 (b) Prevent sharing of confidential information that
69 could affect the fantasy contest play with third parties until the
70 information is made publicly available;

71 (c) Prevent the fantasy contest operator from
72 participating in a fantasy contest he or she offers;

73 (d) Verify that a fantasy contest player in a fantasy
74 contest is eighteen (18) years of age or older;

75 (e) Ensure that individuals who participate or
76 officiate in a game or contest that is the subject of a fantasy



77 contest will be restricted from entering a fantasy contest that is
78 determined, in whole or in part, on the accumulated statistical
79 results of a team of individuals in a fantasy contest in which he
80 or she is a player;

81 (f) Allow individuals to restrict themselves from
82 entering a fantasy contest upon request and provide reasonable
83 steps to prevent the person from entering fantasy contests offered
84 by the operator;

85 (g) Disclose the number of entries that a fantasy
86 contest player may submit to each fantasy contest and provide
87 reasonable steps to prevent players from submitting more than the
88 allowable number; and

89 (h) Segregate fantasy contest player funds from
90 operational funds and maintain a reserve in the form of cash, cash
91 equivalents, an irrevocable letter of credit, a bond, or a
92 combination thereof, in the amount of the deposits made to the
93 accounts of fantasy contest players for the benefit and protection
94 of the funds held in the accounts.

95 (3) A fantasy contest operator offering fantasy contests
96 with an entry fee in this state must contract with a third party
97 to annually perform an independent audit, to ensure compliance
98 with this section and submit the results of the audit to the
99 office.

100 **SECTION 4.** The following shall be codified as Section
101 97-33-307, Mississippi Code of 1972:



102 97-33-307. A contest operator offering fantasy contests to
103 be played by persons in this state must register with the office
104 to conduct fantasy contests within this state. The initial
105 registration shall include a surety bond in the amount of One
106 Hundred Thousand Dollars (\$100,000.00), payable to the state,
107 furnished by a corporate surety authorized to do business in the
108 state. The annual registration fee is Thirty Thousand Dollars
109 (\$30,000.00), or five percent (5%) of the total amount of entry
110 fees collected by a contest operator from the operation of fantasy
111 contests in this state less the amount of cash or cash equivalents
112 paid to contest participants, whichever may be greater. Before
113 receiving any renewal registration, the contest operator shall
114 provide written evidence to the office of the actual entry fees
115 collected and cash or cash equivalents paid to contest
116 participants during the previous period of registration. All
117 funds collected shall be deposited into the General Fund.

118 **SECTION 5.** The following shall be codified as Section
119 97-33-309, Mississippi Code of 1972:

120 97-33-309. A person, firm, corporation, association, agent
121 or employee who violates this act shall be subject to a civil
122 penalty of not more than Ten Thousand Dollars (\$10,000.00) for
123 each violation, which shall accrue to the state and may be
124 recovered in a civil action brought by the office.

125 **SECTION 6.** The following shall be codified as Section
126 97-33-311, Mississippi Code of 1972:



127 97-33-311. The Gaming Control Act shall not apply to fantasy
128 contests.

129 **SECTION 7.** Section 97-33-1, Mississippi Code of 1972, is
130 amended as follows:

131 97-33-1. (1) Except as otherwise provided in Section
132 97-33-8, if any person shall encourage, promote or play at any
133 game, play or amusement, other than a fight or fighting match
134 between dogs, for money or other valuable thing, or shall wager or
135 bet, promote or encourage the wagering or betting of any money or
136 other valuable things, upon any game, play, amusement, cockfight,
137 Indian ball play or duel, other than a fight or fighting match
138 between dogs, or upon the result of any election, event or
139 contingency whatever, upon conviction thereof, he shall be fined
140 in a sum not more than Five Hundred Dollars (\$500.00); and, unless
141 such fine and costs be immediately paid, shall be imprisoned for
142 any period not more than ninety (90) days. However, this section
143 shall not apply to betting, gaming or wagering:

144 (a) On a cruise vessel as defined in Section 27-109-1
145 whenever such vessel is in the waters within the State of
146 Mississippi, which lie adjacent to the State of Mississippi south
147 of the three (3) most southern counties in the State of
148 Mississippi, including the Mississippi Sound, St. Louis Bay,
149 Biloxi Bay and Pascagoula Bay, and in which the registered voters
150 of the county in which the port is located have not voted to



151 prohibit such betting, gaming or wagering on cruise vessels as
152 provided in Section 19-3-79;

153 (b) In a structure located, in whole or in part, on
154 shore in any of the three (3) most southern counties in the State
155 of Mississippi in which the registered voters of the county have
156 voted to allow such betting, gaming or wagering on cruise vessels
157 as provided in Section 19-3-79, if:

158 (i) The structure is owned, leased or controlled
159 by a person possessing a gaming license, as defined in Section
160 75-76-5, to conduct legal gaming on a cruise vessel under
161 paragraph (a) of this section;

162 (ii) The part of the structure in which licensed
163 gaming activities are conducted is located entirely in an area
164 which is located no more than eight hundred (800) feet from the
165 mean high-water line (as defined in Section 29-15-1) of the waters
166 within the State of Mississippi, which lie adjacent to the State
167 of Mississippi south of the three (3) most southern counties in
168 the State of Mississippi, including the Mississippi Sound, St.
169 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to
170 Harrison County only, no farther north than the southern boundary
171 of the right-of-way for U.S. Highway 90, whichever is greater; and

172 (iii) In the case of a structure that is located
173 in whole or part on shore, the part of the structure in which
174 licensed gaming activities are conducted shall lie adjacent to
175 state waters south of the three (3) most southern counties in the



176 State of Mississippi, including the Mississippi Sound, St. Louis
177 Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the
178 structure is located consists of a parcel of real property,
179 easements and rights-of-way for public streets and highways shall
180 not be construed to interrupt the contiguous nature of the parcel,
181 nor shall the footage contained within the easements and
182 rights-of-way be counted in the calculation of the distances
183 specified in subparagraph (ii);

184 (c) On a vessel as defined in Section 27-109-1 whenever
185 such vessel is on the Mississippi River or navigable waters within
186 any county bordering on the Mississippi River, and in which the
187 registered voters of the county in which the port is located have
188 not voted to prohibit such betting, gaming or wagering on vessels
189 as provided in Section 19-3-79; or

190 (d) That is legal under the laws of the State of
191 Mississippi.

192 (2) A Fantasy Contest as defined in Section 97-33-303 shall
193 not constitute gaming or gambling under the laws of the State of
194 Mississippi.

195 **SECTION 8.** Section 97-33-8, Mississippi Code of 1972, is
196 amended as follows:

197 97-33-8. (1) The provisions of this section are intended to
198 clarify that the operation of "Internet sweepstakes cafes" is an
199 illegal gambling activity under state law.

200 (2) It shall be unlawful for any person or entity to



201 possess, own, control, display, operate or have a financial
202 interest in an electronic video monitor that:

203 (a) Is offered or made available to a person to play or
204 participate in a simulated gambling program in return for direct
205 or indirect consideration, including consideration associated with
206 a product, service or activity other than the simulated gambling
207 program; and

208 (b) The person who plays or participates in the
209 simulated gambling program may become eligible to win, redeem or
210 otherwise obtain a cash or cash-equivalent prize, whether or not
211 the eligibility for or value of the prize is determined by or has
212 any relationship to the outcome or play of the program.

213 (3) As used in this section, the following words and phrases
214 shall have the meanings ascribed in this subsection, unless the
215 context clearly indicates otherwise:

216 (a) "Simulated gambling program" means any method
217 intended to be used by a person playing, participating or
218 interacting with an electronic video monitor that is offered by
219 another person or entity; that directly or indirectly implements
220 the predetermination of a cash or cash-equivalent prize, or
221 otherwise connects the player with the cash or cash-equivalent
222 prize; and that is not legal under the Mississippi Gaming Control
223 Act.

224 (b) "Consideration associated with a product, service
225 or activity other than the simulated gambling program" means money



226 or other value collected for a product, service or activity that
227 is offered in any direct or indirect relationship to playing or
228 participating in the simulated gambling program. The term
229 includes consideration paid for Internet access or computer time,
230 or a sweepstakes entry.

231 (c) "Electronic video monitor" means any unit,
232 mechanism, computer or other terminal, or device that is capable
233 of displaying moving or still images.

234 (4) Any person or entity violating the provisions of this
235 section, upon conviction, shall be guilty of a misdemeanor and
236 fined not more than One Thousand Dollars (\$1,000.00) or imprisoned
237 for not less than one (1) year, or both.

238 (5) The provisions of this section shall not apply to:

239 (a) Any lawful activity that is conducted for the
240 primary purpose of entertaining children under the age of eighteen
241 (18) years, during which money is paid for a token or chip that is
242 used to play an electronic or other game, with the winner of the
243 game earning tickets that can be exchanged for prizes;

244 (b) Any lawful marketing promotion, contest, prize or
245 sweepstakes that is designed to attract consumer attention to a
246 specific product or service which is offered for sale by the
247 manufacturer, distributor, vendor or retailer of the product or
248 service; * * *

249 (c) Any promotional activity as defined in Section
250 75-76-5 that is conducted by a gaming licensee * * * or



251 (d) Any lawful fantasy contest with a fee as described
252 in Sections 97-33-301 through 97-33-311 of this act.

253 **SECTION 9.** This act shall take effect and be in force from
254 and after its passage.

