

SENATE BILL 980

C7

6lr2278

By: **Senator Miller**

Introduced and read first time: February 12, 2016

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Traditional Noncommercial Fantasy Competitions – Clarification**

3 FOR the purpose of prohibiting a person from offering or participating in a commercial
4 game or competition that includes certain elements; requiring certain units of State
5 and local government to narrowly construe certain provisions of law; altering the
6 definition of certain authorized fantasy sports competitions; providing for regulation
7 of certain fantasy sports competitions by the State Lottery and Gaming Control
8 Commission; and generally relating to certain games and competitions.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 12–102(a) and 12–113
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2015 Supplement)

14 BY adding to
15 Article – Criminal Law
16 Section 12–102(a–1)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2015 Supplement)

19 BY repealing
20 Article – Criminal Law
21 Section 12–114
22 Annotated Code of Maryland
23 (2012 Replacement Volume and 2015 Supplement)

24 BY adding to
25 Article – State Government
26 Section 9–1B–01 and 9–1B–02 to be under the new subtitle “Subtitle 1B. Fantasy
27 Sports Competitions”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2014 Replacement Volume and 2015 Supplement)

3 Preamble

4 WHEREAS, On November 4, 2008, the citizens of Maryland made clear, through an
5 amendment to the Maryland Constitution, that any future expansion of commercial gaming
6 in the State must be approved by the citizens of Maryland through a referendum; and

7 WHEREAS, During the 2012 regular session of the General Assembly, the General
8 Assembly authorized noncommercial home games of fantasy sports or competitions; and

9 WHEREAS, The Attorney General of the State of Maryland has advised that
10 commercial operators of fantasy sports Web sites have been operating in Maryland without
11 authorization or regulation by the State and contrary to the clear intent of Article XIX of
12 the Maryland Constitution requiring that all forms of commercial gaming must be
13 authorized by the citizens of Maryland at referendum; and

14 WHEREAS, Any expansion of commercial gaming must go to the citizens of
15 Maryland to be voted on at referendum and if approved must be regulated by the State
16 Lottery and Gaming Control Commission with an appropriate distribution of the gaming
17 revenue to the Education Trust Fund; and

18 WHEREAS, The General Assembly intended in 2012 to authorize non-commercially
19 organized fantasy sports leagues organized among individuals in the State with the use of
20 websites as incidental to the playing of the imaginary game; now, therefore,

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Criminal Law**

24 12–102.

25 (a) A person may not:

26 (1) bet, wager, or gamble;

27 (2) make or sell a book or pool on the result of a race, contest, or
28 contingency;

29 (3) establish, keep, rent, use, or occupy, or knowingly allow to be
30 established, kept, rented, used, or occupied, all or a part of a building, vessel, or place, on
31 land or water, within the State, for the purpose of:

32 (i) betting, wagering, or gambling; or

1 (ii) making, selling, or buying books or pools on the result of a race,
2 contest, or contingency; [or]

3 (4) receive, become the depository of, record, register, or forward, or
4 propose, agree, or pretend to forward, money or any other thing or consideration of value,
5 to be bet, wagered, or gambled on the result of a race, contest, or contingency; **OR**

6 **(5) OFFER OR PARTICIPATE IN A COMMERCIAL GAME OR**
7 **COMPETITION THAT INCLUDES THE ELEMENTS OF CONSIDERATION, CHANCE, AND**
8 **REWARD.**

9 **(A-1) A COMMERCIAL GAME OR COMPETITION UNDER SUBSECTION (A)(5) OF**
10 **THIS SECTION CONTAINS THE ELEMENT OF CHANCE IF CHANCE HAS MORE THAN A**
11 **MERE INCIDENTAL EFFECT ON THE GAME OR COMPETITION.**

12 12-113.

13 (a) The Office of the Attorney General, the State Lottery and Gaming Control
14 Commission, the Department of State Police, local law enforcement units, and the court
15 shall:

16 **(1) construe liberally this title relating to gambling and betting to prevent**
17 **the activities prohibited; AND**

18 **(2) NARROWLY CONSTRUE ANY PROVISION OF LAW THAT EXPANDS OR**
19 **AUTHORIZES GAMBLING ACTIVITIES AND DEVICES IN THE STATE IN ORDER TO LIMIT**
20 **THE EXPANSION OF GAMBLING ACTIVITIES AND DEVICES IN THE STATE.**

21 (b) A decision by the State Lottery and Gaming Control Commission shall be the
22 final determination as to whether a gaming device being operated in the State is:

23 (1) a legal gaming device or device consistent with the provisions of this
24 article; and

25 (2) being operated in a lawful manner under this article.

26 (c) If a local law enforcement unit fails to promptly enforce a final determination
27 made under subsection (b) of this section, the State Lottery and Gaming Control
28 Commission shall refer the matter to the Department of State Police for enforcement of the
29 law.

30 [12-114.

31 (a) In this section, "fantasy competition" includes any online fantasy or simulated
32 game or contest such as fantasy sports, in which:

1 (1) participants own, manage, or coach imaginary teams;

2 (2) all prizes and awards offered to winning participants are established
3 and made known to participants in advance of the game or contest;

4 (3) the winning outcome of the game or contest reflects the relative skill of
5 the participants and is determined by statistics generated by actual individuals (players or
6 teams in the case of a professional sport); and

7 (4) no winning outcome is based:

8 (i) solely on the performance of an individual athlete; or

9 (ii) on the score, point spread, or any performances of any single
10 real-world team or any combination of real-world teams.

11 (b) Notwithstanding the provisions of this or any other title, the prohibitions
12 against betting, wagering, and gambling do not apply to participation in a fantasy
13 competition.

14 (c) The Comptroller may adopt regulations to carry out the provisions of this
15 section.]

16 Article – State Government

17 SUBTITLE 1B. FANTASY SPORTS COMPETITIONS.

18 9-1B-01.

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (B) “COMMISSION” MEANS THE STATE LOTTERY AND GAMING CONTROL
22 COMMISSION.

23 (C) (1) “ENTRY FEE” MEANS A CHARGE REQUIRED TO PARTICIPATE IN A
24 FANTASY COMPETITION, THE PAYMENT OF WHICH IS REQUIRED TO RECEIVE A
25 PRIZE.

26 (2) “ENTRY FEE” DOES NOT INCLUDE A CHARGE THAT IS IMPOSED
27 UNIFORMLY AND FOR AN IDENTIFIABLE PURPOSE.

28 (D) (1) “FANTASY COMPETITION” INCLUDES ANY ONLINE FANTASY OR
29 SIMULATED GAME OR CONTEST SUCH AS FANTASY SPORTS, IN WHICH:

1 (I) PARTICIPANTS OWN, MANAGE, OR COACH IMAGINARY
2 TEAMS;

3 (II) PARTICIPANTS ORGANIZE AMONG THEMSELVES AND
4 PARTICIPATE DIRECTLY IN THE COMPETITION;

5 (III) ALL PRIZES AND AWARDS OFFERED TO WINNING
6 PARTICIPANTS ARE ESTABLISHED AND MADE KNOWN TO PARTICIPANTS IN ADVANCE
7 OF THE GAME OR CONTEST;

8 (IV) THE WINNING OUTCOME OF THE GAME OR CONTEST
9 REFLECTS THE RELATIVE SKILL OF THE PARTICIPANTS AND IS DETERMINED BY
10 STATISTICS GENERATED BY ACTUAL INDIVIDUALS WHO ARE PLAYERS OR TEAMS IN
11 THE CASE OF A PROFESSIONAL SPORT;

12 (V) NO WINNING OUTCOME IS BASED:

13 1. SOLELY ON THE PERFORMANCE OF AN INDIVIDUAL
14 ATHLETE; OR

15 2. ON THE SCORE, POINT SPREAD, OR ANY
16 PERFORMANCES OF ANY SINGLE REAL-WORLD TEAM OR ANY COMBINATION OF
17 REAL-WORLD TEAMS; AND

18 (VI) USE OF A WEB SITE IS SOLELY ASSISTIVE IN NATURE IN
19 PLAYING THE GAME TO KEEP TRACK OF THE IMAGINARY TEAMS.

20 (2) "FANTASY COMPETITION" DOES NOT INCLUDE ANY ONLINE
21 FANTASY OR SIMULATED GAME OR CONTEST SUCH AS FANTASY SPORTS IF THE
22 PROVIDER OR VENDOR OF THE GAME OR CONTEST REQUIRES THE PAYMENT OF AN
23 ENTRY FEE IN ORDER TO PARTICIPATE IN THE GAME OR CONTEST.

24 9-1B-02.

25 (A) NOTWITHSTANDING THE PROVISIONS OF THIS OR ANY OTHER TITLE,
26 THE PROHIBITIONS AGAINST BETTING, WAGERING, AND GAMBLING DO NOT APPLY
27 TO PARTICIPATION IN A FANTASY COMPETITION.

28 (B) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THE
29 PROVISIONS OF THIS SECTION.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
31 1, 2016.