

SENATE BILL 980

C7

6lr2278

By: **Senator Miller**

Introduced and read first time: February 12, 2016

Assigned to: Rules

Re-referred to: Budget and Taxation, February 19, 2016

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2016

CHAPTER _____

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; providing for a delayed effective date; and generally relating to certain
9 games and competitions.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Law
12 Section 12–102(a) and 12–113
13 Annotated Code of Maryland
14 (2012 Replacement Volume and 2015 Supplement)

15 BY adding to
16 Article – Criminal Law
17 Section 12–102(a–1)
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2015 Supplement)

20 BY repealing
21 Article – Criminal Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 12–114
2 Annotated Code of Maryland
3 (2012 Replacement Volume and 2015 Supplement)

4 BY adding to
5 Article – State Government
6 Section 9–1B–01 and 9–1B–02 to be under the new subtitle “Subtitle 1B. Fantasy
7 Sports Competitions”
8 Annotated Code of Maryland
9 (2014 Replacement Volume and 2015 Supplement)

10 Preamble

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

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

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

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

25 WHEREAS, The General Assembly intended in 2012 to authorize ~~non-commercially~~
26 noncommercially organized fantasy sports leagues organized among individuals in the
27 State with the use of ~~websites~~ Web sites as incidental to the playing of the imaginary game;
28 now, therefore,

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

31 **Article – Criminal Law**

32 12–102.

33 (a) A person may not:

34 (1) bet, wager, or gamble;

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

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

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

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

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

12 **(5) OFFER OR PARTICIPATE IN A COMMERCIAL GAME OR**
13 **COMPETITION THAT INCLUDES THE ELEMENTS OF CONSIDERATION, CHANCE, AND**
14 **REWARD.**

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

18 12-113.

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

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

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

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

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

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

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

5 [12–114.

6 (a) In this section, “fantasy competition” includes any online fantasy or simulated
7 game or contest such as fantasy sports, in which:

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

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

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

14 (4) no winning outcome is based:

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

16 (ii) on the score, point spread, or any performances of any single
17 real–world team or any combination of real–world teams.

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

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

23 Article – State Government

24 SUBTITLE 1B. FANTASY SPORTS COMPETITIONS.

25 9–1B–01.

26 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (B) “COMMISSION” MEANS THE STATE LOTTERY AND GAMING CONTROL
29 COMMISSION.

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

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

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

8 **(I) PARTICIPANTS OWN, MANAGE, OR COACH IMAGINARY**
9 **TEAMS;**

10 **(II) PARTICIPANTS ORGANIZE AMONG THEMSELVES AND**
11 **PARTICIPATE DIRECTLY IN THE COMPETITION;**

12 **(III) ALL PRIZES AND AWARDS OFFERED TO WINNING**
13 **PARTICIPANTS ARE ESTABLISHED AND MADE KNOWN TO PARTICIPANTS IN ADVANCE**
14 **OF THE GAME OR CONTEST;**

15 **(IV) THE WINNING OUTCOME OF THE GAME OR CONTEST**
16 **REFLECTS THE RELATIVE SKILL OF THE PARTICIPANTS AND IS DETERMINED BY**
17 **STATISTICS GENERATED BY ACTUAL INDIVIDUALS WHO ARE PLAYERS OR TEAMS IN**
18 **THE CASE OF A PROFESSIONAL SPORT;**

19 **(V) NO WINNING OUTCOME IS BASED:**

20 **1. SOLELY ON THE PERFORMANCE OF AN INDIVIDUAL**
21 **ATHLETE; OR**

22 **2. ON THE SCORE, POINT SPREAD, OR ANY**
23 **PERFORMANCES OF ANY SINGLE REAL-WORLD TEAM OR ANY COMBINATION OF**
24 **REAL-WORLD TEAMS; AND**

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

27 **(2) “FANTASY COMPETITION” DOES NOT INCLUDE ANY ONLINE**
28 **FANTASY OR SIMULATED GAME OR CONTEST SUCH AS FANTASY SPORTS IF THE**
29 **PROVIDER OR VENDOR OF THE GAME OR CONTEST REQUIRES THE PAYMENT OF AN**
30 **ENTRY FEE IN ORDER TO PARTICIPATE IN THE GAME OR CONTEST.**

31 **9-1B-02.**

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

4 (B) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THE
5 PROVISIONS OF THIS ~~SECTION~~ SUBTITLE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~
7 January 1, ~~2016~~ 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.