

Maryland Lottery and Gaming Control Agency



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TO: Chair Jheanelle Wilkins
House Ways & Means Committee

FROM: Jennifer Beskid, Director Legislation and Policy

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SUBJECT: Letter of Information - House Bill 731, Fantasy Competitions - Alterations and Voluntary Exclusion Requirements

House Bill 731, *Fantasy Competitions - Alterations and Voluntary Exclusion Requirements*, seeks to create a hybrid form of fantasy competitions with sports wagering. As proposed, HB 731 would change the current structure of State Government Article (SG) § 9-1D-01, requiring the 14 current online fantasy sports operators pay a \$50,000 licensing fee annually in return for expanding fantasy competitions into the realm of sports wagering.

Under the existing regulations, fantasy competition operators must register with the Maryland Lottery and Gaming Control Commission (Commission). Upon meeting the criteria in COMAR 36.09.02, Registration, the operator is certified for 365 days from the date of the certification. The operator is required to submit the rules of fantasy competitions that they offer to the Commission for approval. Minor variations of fantasy competitions may be made without resubmitting information to the Commission.

Currently, players can engage in fantasy competitions on one of 14 registered operator platforms in the State. Operators register and pay a \$1,000 registration fee annually. Fantasy competition operators keep 85% of their proceeds and the remaining 15% is submitted to the Commission where it is dispersed to the Blueprint for Maryland's Future Fund ("Blueprint").

The proposed changes in HB 731 alter the existing structure of fantasy competitions, and current operators would have the ability to expand fantasy competition offerings but would be required to pay a \$50k licensing fee instead of a \$1k registration fee. The proceeds would be directed to the Blueprint.

The proposed amendments would significantly alter the structure of fantasy competitions into becoming 'sports wagering competitions.' Currently, SG 9-1E-01(j) defines "sports wagering" as "the business of accepting wagers on any sporting event by any system or method of wagering, including single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets." The Commission's sports wagering regulations define an "exchange wager" as "a wager in which a bettor wagers with or against another bettor through a sports wagering licensee." COMAR 36.10.01.02.B(24). The bill would authorize bettors betting against each other in fantasy competitions.

HB 731 also would change the structure of the prize, and allow players to select outcomes of the contest by selecting between the higher or lower of the projected or actual performance statistics of teams consisting of two or more, individual, real-life athletes. These are commonly known as “over-under wagers”, which the Commission’s sports wagering regulations define as “a wager in which a sports wagering licensee sets a number for a statistic in a sporting event, and a bettor wagers that the actual result in the sporting event will be higher or lower than the number set by the sports wagering licensee.” COMAR 36.10.01.02.B(48). The Agency submits that these changes are strikingly similar, if not identical, to sports wagering.

Fantasy competitions are where participants assemble, own, and manage an imaginary team composed of athletes they acquire in a draft. Participants win a prize, or not, based on how their team performs during the season. Participants’ teams earn points based on the performance of each of their players, and the participant with the highest number of points wins for that contest, which can last for a week, season, or year. The bill’s structure fundamentally changes the landscape of fantasy competition by focusing away from the performance of the fantasy team. For example, a current fantasy football league sets the number of players on each participant’s roster. The roster may be limited to 5 players and the participants draft players from the entire league until they have a 5-man roster from a minimum of 2 different (real-life) teams. The language in the bill would allow participants to compete against other participants where the rosters are assembled on real-life athletes, who may not even participate in the same sport, and then participants select the higher or lower of projected or actual performance for each athlete. The Agency contends that this is sports wagering.

Additionally HB 731 seeks to change language in SG § 9-1D-02 by removing references to Title 12 of the Criminal Law Article and specifying that, “A fantasy competition conducted in compliance with the provisions of SG § 9-1D-02 does not constitute betting, wagering, or gambling for any purpose.” This declaration is contradicted by the proposed amendments to the definition of “fantasy competition.” This is also a declaration that the new, expanded definitions and features of fantasy competition are exempt from Article XIX of the State constitution, which provides that any expansion of commercial gaming is subject to referendum. The Agency does not believe this can be done simply by this bill amending the language in SG § 9-1D-02.

The Agency has been in contact with the bill sponsor and understands amendments are being considered. In the meantime, we offer this information for your consideration as you discuss HB 731.