



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4308 (Substitute S-1 as reported)
House Bill 4309 (Substitute S-1 as reported)
Sponsor: Representative Brandt Iden (H.B. 4308)
Representative Michael Webber (H.B. 4309)
House Committee: Regulatory Reform
Ways and Means
Senate Committee: Regulatory Reform

CONTENT

House Bill 4308 (S-1) would create the "Fantasy Contests Consumer Protection Act" to do the following:

- Except as otherwise provided, prohibit a person from offering fantasy contests in Michigan unless the person was a licensed fantasy contest operator.
- Require a person seeking to be licensed as a fantasy contest operator to submit an application, with an initial \$10,000 fee, to the Michigan Gaming Control Board (MGCB).
- Specify that a casino licensee licensed by the Board under the Michigan Gaming Control and Revenue Act and an Indian tribe that met specified existing conditions could offer and conduct fantasy contests without applying for or holding a license under the proposed Act.
- Create penalties for a person who offered a fantasy contest in the State without being licensed by the Board.
- List the documentation an applicant for licensure would have to provide to the Board.
- Specify that a license would be valid for one year, and that the Board would have to renew a license each year if the applicant demonstrated continued eligibility for licensure under the proposed Act and paid the renewal fee of \$5,000.
- Require a fantasy contest operator to prohibit an individual who was less than 18 years of age from participating in a fantasy contest, and list further responsibilities and requirements of a fantasy contest operator.
- List commercially reasonable procedures and internal controls a fantasy contest operator would have to implement.
- Require a fantasy contest operator to report to the Board and pay from its monthly fantasy contest adjusted revenue a tax of 8.4% to be paid to the Board by the 20th day of each month, and include penalties for failure to remit the tax.
- Create the "Fantasy Contest Fund" in the Department of Treasury, and require the tax collected under the Act to be deposited into the Fund.
- Require money deposited into the Fund to be spent on the Board's costs of regulating and enforcing fantasy contests and the State School Aid Fund.
- Require, by July 1 of each year, a licensed fantasy contest operator to contract with a certified public accountant to perform an independent audit of the operator and require those results to be submitted to the Board not later than 180 days after the end of the fantasy contest operator's fiscal year.
- Provide the Board jurisdiction over each person involved in the conduct of a fantasy contests, and allow it to promulgate rules related to the conduct of fantasy contests.
- Allow the Board to suspend, revoke, or restrict the license of a fantasy contest operator that violated the Act, a rule promulgated under the Act, or an order of the Board, and impose civil fines of not more than \$20,000.

House Bill 4309 (S-1) would amend the Code of Criminal Procedure to create in the sentencing guidelines a Class E felony against the public order for fantasy contest offenses, third or subsequent violations.

MCL 777.14d (H.B. 4309)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

House Bill 4308 (S-1) would have an indeterminate fiscal impact on the Michigan Gaming Control Board, School Aid Fund, and local units of government.

The bill would increase administrative costs to the MGCB to promulgate rules, operate licenses, review audits, and regulation of fantasy contest operators. The MGCB would generate revenue in the form of initial license and renewal fees on fantasy contest operators. Additional fees could be authorized by the MGCB to support investigations. It is currently unknown if the additional fees would be sufficient to support the additional administrative costs on the MGCB. However, the bill would allow tax revenue to be used for administration in the event fee revenue was insufficient to lower costs.

The Department of Treasury estimates fantasy sports betting would generate between \$800,000 and \$1.0 million based on the 8.4% tax on Total Adjust Gross between \$9.4 million and \$11.8 million. Assuming additional revenue would not be needed to cover all administrative costs, then that additional revenue would be deposited into the School Aid Fund. Any additional funding needed to cover administrative costs would represent less revenue deposited into the School Aid Fund.

The bill would have a negative fiscal impact on the State and local government. New misdemeanor arrests and convictions under the proposed bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

Additionally, the bill would make a third or subsequent violation a felony. Felony convictions would have a negative fiscal impact on the State and local government. New felony arrests and convictions under the proposed bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under the bill's provisions. The average cost to State government for felony probation supervision is approximately \$3,500 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$5,315 per prisoner per year. Any additional revenue from imposed fines would go to local libraries.

House Bill 4309 (S-1) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

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[floor/hb4308](#)

Bill Analysis @ www.senate.michigan.gov/sfa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.