

BRIAN E. FROSH  
ATTORNEY GENERAL



SANDRA BENSON BRANTLEY  
COUNSEL TO THE GENERAL ASSEMBLY

ELIZABETH F. HARRIS  
CHIEF DEPUTY ATTORNEY GENERAL

CAROLYN A. QUATTROCKI  
DEPUTY ATTORNEY GENERAL

KATHRYN M. ROWE  
DEPUTY COUNSEL

JEREMY M. MCCOY  
ASSISTANT ATTORNEY GENERAL

DAVID W. STAMPER  
ASSISTANT ATTORNEY GENERAL

THE ATTORNEY GENERAL OF MARYLAND  
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

May 11, 2018

The Honorable Lawrence J. Hogan, Jr.  
Governor of Maryland  
State House  
100 State Circle  
Annapolis, Maryland 21401

**RE: *Senate Bill 900, "Gaming - Fantasy Competitions - Regulation and Prohibition on Operation of Electronic Device"***

Dear Governor Hogan:

We have reviewed and hereby approve Senate Bill 900 for constitutionality and legal sufficiency. We write to make you aware of previous advice from the Office of Attorney General about fantasy competitions.

Senate Bill 900 addresses fantasy competitions and transfers the authority to regulate them from the Comptroller to the State Lottery and Gaming Control Commission ("SLGCC") and transfers Criminal Law Article ("CR"), § 12-114 to the State Government Article. The bill also prohibits a person from operating a kiosk or machine that offers fantasy competitions to the public in a place of business physically located in the State.

Chapter 346 of 2012 authorized fantasy competitions in the State. The Office of Attorney General has previously advised that although the legality of daily fantasy sports is uncertain, Criminal Law Article ("CR"), § 12-114 likely cannot be read to authorize daily fantasy competitions because the legislation construed as authorizing such was not submitted to a statewide voter referendum as required by Article XIX, § 1(e) of the Maryland Constitution. *See* Letter to the Honorable Thomas V. Mike Miller, Jr. from Asst. Att'y Gen. Kathryn M. Rowe and Asst. Att'y Gen. Adam D. Snyder, dated January 15, 2016.<sup>1</sup> On the other hand, traditional, season-long fantasy competitions are legal, as might other forms of fantasy competitions that would not constitute commercial gaming.

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<sup>1</sup> See page 2 of the letter for explanations of "daily fantasy sports" and "traditional fantasy sports."

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Accordingly, the provisions of Senate Bill 900 prohibiting fantasy competitions at kiosks or machines that offer fantasy competitions to the public in a place of business physically located in the State present no problems. With regard to the provisions governing the regulation of fantasy competitions, we suggest SLGCC refer to advice from the Office of Attorney General to the Comptroller's Office with regard to the legality of its departmental regulations for online fantasy competitions issued pursuant to CR § 12-114. *See* Memorandum from Asst. Att'y Gen. Brian L. Oliner to John Gontrum and Anne Klase, Comptroller's Office, dated July 11, 2016.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brian E. Frosh".

Brian E. Frosh  
Attorney General

BEF/SBB/kd

cc: The Honorable John C. Wobensmith  
Chris Shank  
Victoria L. Gruber