

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Judiciary Committee

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BILL: CS/SB 552

SPONSOR: Commerce and Consumer Services Committee and Senator Margolis

SUBJECT: Game Promotion/Consumer Products

DATE: March 21, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Siebert</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Chinn</u>	<u>Maclure</u>	<u>JU</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Committee Substitute for Senate Bill 552 reduces the publishing requirements for advertising copy associated with game promotions, in which the total announced value of the prizes offered is greater than \$5,000. The language requires only “material terms” to appear in advertising copy so long as the advertisement provides a website address, a toll-free phone number, or a mailing address where the full rules and regulations may be viewed, heard, or obtained for the duration of the game promotion. The statute would still require the rules and regulations to be posted in their entirety in every location where the game may be played.

This committee substitute amends section 849.094, Florida Statutes.

## II. Present Situation:

A “game promotion” means, but is not limited to, a contest, game of chance, or gift enterprise, conducted within or throughout the state and other states in connection with the sale of consumer products or services, and in which the elements of chance and prize are present.<sup>1</sup> Section 849.094(3), F.S., imposes several requirements on an operator of a game promotion where the total value of the prizes is greater than \$5,000. An operator of a game promotion must file with the Department of Agriculture and Consumer Services a copy of the rules and regulations of the game promotion at least seven days prior to the commencement of the promotion. The operator must also file with the department a list of all prizes and prize categories. Additionally, the operator must post the rules and regulations in each retail outlet or where the game will be played or participated in by the public. Further, the operator must include all of the rules and

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<sup>1</sup> s. 849.094(1)(a), F.S.

regulations in all advertising used in connection with the game promotion. A nonrefundable \$100 fee is required for each filing.

### **III. Effect of Proposed Changes:**

The committed substitute amends s. 849.094(3), F.S., to add language that limits the publishing requirement for advertising copy used in game promotions where the total value of the prizes is greater than \$5,000. Advertising copy used to promote the contests need only include the “material terms,” as opposed to all of the rules and regulations associated with the contest. Promoters may limit their advertising copy to material terms if the advertisement includes a website address, a toll-free number, or a mailing address where the full rules and regulations may be obtained for the entire duration of the game promotion. Rules and regulations must still be posted in their entirety at every location where the contest may be played.

The committee substitute does not define “material terms” as referenced in this legislation. The Department of Agriculture and Consumer Services may choose to exercise its rulemaking authority under s. 849.094(8)(a), F.S., to clarify the meaning of “material terms” so that advertising copy used in game promotions includes information deemed necessary.

The committee substitute provides an effective date of July 1, 2005.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

This committee substitute may reduce the advertising costs for operators of game promotions by permitting them to publish only the material terms of the rules and regulations for a particular promotion, as opposed to publishing the entire rules and regulations if the operator includes a website address, a toll-free number, or a mailing address where the full rules and regulations may be accessed for the full duration of the promotion.

In addition, promotions that may not have been held in Florida because of the state's additional publishing requirements may now be open to Florida residents.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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