

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Regulated Industries Committee

**BILL:** CS/SB 836

**INTRODUCER:** Regulated Industries Committee and Senator Jones

**SUBJECT:** Gaming

**DATE:** March 25, 2009      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Rhea	RI	Fav/CS
2.	_____	_____	FT	_____
3.	_____	_____	GA	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This committee substitute (CS) eliminates unnecessary regulations, provides consistency between provisions, streamlines regulatory procedures for the pari-mutuel industry, and authorizes additional games. The CS:

- provides for the establishment, operation, and regulation of electronic gaming machines. The electronic gaming machines would be authorized for pari-mutuel facilities which do not operate slot machines. The CS delegates regulatory authority for the machines to the Division of Pari-mutuel Wagering in the Department of Business and Professional Regulation;
- provides for monthly payments instead of bi-weekly payments for license fees and taxes for pari-mutuels and for the tax payments on slot machine revenues and electronic gaming revenues to conform with the monthly reporting requirements;
- changes the definition of year from calendar year to state fiscal year;
- provides for flexibility in the fees charged for three year occupational licenses to be set by rule by the division;
- provides a definition for “convicted” that conforms with the slot machine definition for purposes of occupational licenses;
- deletes the 30 day limit on the validity of the temporary occupational license and gives the Division more time to issue a license;

- deletes the witness and notary requirement of the signature on the application for an occupational license to allow for electronic processing within the division;
- requires submitted fingerprints to be retained by the Department of Law Enforcement;
- repeals the requirement banning electronic transmitting devices from pari-mutuel facilities so that patrons can safely bring in personal digital assistants, cell phones, etc., to the facilities;
- expands a cruelty to animal violation of ch. 550 to include an act committed by a licensee that would constitute cruelty to animals involving any animal instead of just a racing animal;
- removes exceptions relating to the quarter horse permit application process with the division and subjects quarter horse permit applicants to the permit procedures required of jai alai, thoroughbred, greyhound and harness racing;
- removes the quarter horse exemption to s. 550.054, F.S., making them subject to the mileage restrictions on pari-mutuel facility locations and application criteria found in the section;
- removes the “Florida Thoroughbred Racing Season” to create uniformity for operation dates;
- deletes expired provisions;
- provides a definition for historical racing system;
- authorizes permit holders to conduct historical racing and requires an annual \$1 million dollar fee to the division. The CS provides that each permit holder may have 500 historical racing terminals if it has run three full years of live racing and if it operates a cardroom;
- provides for greater flexibility of breeders’ and stallion awards;
- provides that persons 18 years of age may play slot machines, electronic gaming machines, and use historical racing systems;
- reduces the tax rate on slot machine revenue from 50% to 35%;
- provides that slot machines may be linked using a progressive system;
- provides that the payout percentage of a slot machine facility shall be no less than 85% instead of 85% per machine;
- provides that an initial cardroom license shall not be issued to a permitholder unless the permitholder is licensed to conduct a full schedule of live races and has conducted a full schedule of live racing for the prior two years;
- provides that an initial electronic gaming or historical racing license shall not be issued to a permitholder unless the permitholder is a licensed cardroom operator and only if the pari-mutuel facility has conducted a full schedule of live racing the three years prior to application for an electronic gaming or historic racing license;
- expands the hours that a cardroom may operate to a cumulative amount of 18 hours per day on Monday through Friday and 24 hours per day on Saturday and Sunday; and
- provides that cardroom licensees located in Miami-Dade and Broward County, who are slot machine licensees, may conduct the game of blackjack if the Governor and the Seminole Tribe enter into a compact that permits the Seminole Tribe of Florida the ability to play roulette or roulette style games, craps or craps style games, or sports pool games if the compact is approved or deemed approved by the Department of the Interior.

This CS amends sections 215.22, 550.002, 550.01215, 550.0951, 550.09511, 550.09514, 550.105, 550.135, 550.2415, 550.26165, 550.2625, 550.334, 550.3355, 550.5251, 551.104, 551.106, 551.113, 551.121, 849.086, 772.102, 895.02, and 849.15, Florida Statutes.

This CS repeals section 550.3605, Florida Statutes.

This CS creates undesignated sections of law.

This CS creates section 550.810, Florida Statutes.

## II. Present Situation:

### Overview

The regulation of the pari-mutuel industry is governed by ch. 550, F.S., and is administered by the Division of Pari-Mutuel Wagering (division) within the Department of Business and Professional Regulation (department).

*Pari-mutuel wagering* is a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. The pari-mutuel industry in the State of Florida is made up of horseracing, greyhound racing, and Jai Alai. There are 26 facilities currently in operation. The industry consists of 16 greyhound tracks, six Jai Alai frontons, three thoroughbred tracks, and one harness track. Twenty-one of the facilities have cardrooms<sup>1</sup> and three facilities have slot machines<sup>2</sup>.

### Types of Pari-mutuels

*Greyhound racing* was authorized in Florida in 1931.<sup>3</sup> Betting is permitted on the outcome of the races around an oval track. The greyhounds typically chase a “lure,” which is usually a mechanical hare or rabbit. Racing greyhounds are those which are bred, raised, or trained to be used in racing at a pari-mutuel facility and are registered with the National Greyhound Association.<sup>4</sup>

*Horse Racing*, like greyhound racing, was also authorized in the State of Florida in 1931. Currently, the state authorizes three forms of horse racing classes for betting; thoroughbred, harness, and quarter horse racing.

*Thoroughbred racing* involves only horses specially bred and registered by certain bloodlines. The thoroughbred industry is highly regulated and specifically overseen by national and international governing agencies. Thoroughbred horses are defined as “a purebred horse whose ancestry can be traced back to one of three foundation sires and whose pedigree is registered in

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<sup>1</sup> Dania / Summersport Jai Alai, Daytona Beach Kennel Club, Derby Lane (St. Petersburg Kennel Club), Ebro Greyhound Park (Washington County Kennel Club), Flagler Greyhound Track, Fort Pierce Jai Alai, Gulfstream Park, Hamilton Jai Alai & Poker, Jefferson County Kennel Club, Mardi Gras Racetrack and Gaming Center, Melbourne Greyhound Park, Miami / Summer Jai Alai, Naples Fort Myers Greyhound Track, Ocala Poker & Jai Alai, Orange Park, Palm Beach Kennel Club, the Isle Casino and Racing at Pompano Park, Best Bet / St. Johns (at Bayard), Sarasota Kennel Club, Tampa Bay Downs, and Tampa Greyhound Track operate cardrooms. See <http://www.myflorida.com/dbpr/pmw/track.html>.

<sup>2</sup> Gulfstream Park, Mardi Gras Racetrack and Gaming Center, and The Isle Casino and Racing at Pompano Park have slot machine gaming. See <http://www.myflorida.com/dbpr/pmw/track.html>.

<sup>3</sup> *Deregulation of Intertrack and Simulcast Wagering at Florida's Pari-Mutuel Facilities*, Interim Report No. 2006-145, Florida Senate Committee on Regulated Industries, September 2005.

<sup>4</sup> Section 550.002(29), F.S.

the American Stud Book or in a foreign stud book that is recognized by the Jockey Club and the International Stud Book Committee.<sup>5</sup> Pari-mutuel betting is allowed on the outcome of the race which runs typically from one mile to one and one-quarter of a mile.

*Harness racing* in the State of Florida is currently only permitted at the Pompano Park facility. Harness racing uses standardbred horses, which are a “pacing or trotting horse . . . that has been registered as a standardbred by the United States Trotting Association” (USTA) or by a foreign registry whose stud book is recognized by the USTA.<sup>6</sup>

*Quarter horse racing* is currently legal in the State of Florida. Quarter horses are defined as those developed in the western United States which are capable of high speed for a short distance.<sup>7</sup> They are registered with the American Quarter Horse Association. Quarter horse racing is over a much shorter distance than either the thoroughbred or harness race classes.

*Jai Alai* is a game originating from the Basque region in Spain played in a fronton<sup>8</sup> in which a ball is hurled through the court and points are assessed based on legal throws and catches. Jai Alai was first permitted in 1935. Florida is the only state where Jai Alai is currently played.

### **Breeders’ and Stallion Awards**

Breeders’ and stallion awards are financial incentives paid to encourage the agricultural industry to breed racehorses in this state. "Purse" means the cash portion of the prize for which a race or game is contested.

Section 550.26165, F.S., dedicates money for the use of breeders’ and stallion awards, which are to be used for registered Florida-bred horses winning races and for other awards to the owners of stallion who sired Florida-bred horses winning stakes races.

- Awards must be given at a uniform rate and be between 15 and 20 percent of the announced gross purses.
- As determined by the Florida Thoroughbred Breeders’ Association, not less than 17 percent or more than 40 percent of the moneys dedicated for the breeders’ and stallion awards for thoroughbreds shall be returned pro rata to the permitholders that generated the moneys to be used for special racing awards.
- Awards are paid on thoroughbred horse races taking place only in the State of Florida.
- Each breeders’ association is required to develop a plan each year that provides a uniform rate payment and procedures for breeders’ and stallion awards, and imposing restrictions not allowing the rate to be less than 15 percent of the total purse payment.

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<sup>5</sup> Section 550.002(35), F.S.

<sup>6</sup> Section 550.002(33), F.S.

<sup>7</sup> Section 550.002(28), F.S.

<sup>8</sup> “A building or enclosure that contains a playing court with three walls designed and constructed for playing the sport of Jai Alai or pelota,” Section 550.002(10), F.S.

## Electronic Gaming

Article X, section 7 of the Florida Constitution allows for the operation of a state-operated lottery. The Florida Lottery was established by the Legislature in 1987 and codified as ch. 24, F.S.

The operation of electronic gaming machines is not presently authorized under Florida law, though slot machines are specifically authorized in Broward and Miami-Dade Counties by s. 23, Art. X, Florida Constitution. The only player activated lottery machines are those that dispense instant lottery game tickets following the insertion of a coin or currency by a ticket purchaser pursuant to s. 24.105(9)4, F.S. Under s. 24.102, F.S., all net proceeds from lottery games are to be used to support improvements to public education.

## Historical Racing

Historical racing involves the use of recorded pari-mutuel events, either greyhound or thoroughbreds, on which patrons place wagers. A typical historical racing system works as follows: a customer inserts cash or a credit voucher which displays the amount the patron has to wager. Depending on the type of facility at which the patron is wagering, the historical racing system randomly selects races from a grouping of 336 greyhound races or 720 thoroughbred races from the recorded races stored in its main server. The races are configured so that every possible outcome from an eight greyhound field or a ten thoroughbred field is available for patron wagering.<sup>9</sup>

Once the patron inputs the wagering amount, a race is randomly selected from the available races and the patron may make a selection of potential finishers.<sup>10</sup> The patron has the ability to look at some handicapping data to assist in making the wagering selection which is provided to the patron along with the selected race.<sup>11</sup> The wagering terminal displays the payouts available from the actual pools in which the customer may make a wager. The pools are locked when the player makes a wager.

The system accumulates the wagers, records sales, calculates payoffs, and displays wagering data on a display device located at a pari-mutuel facility. There are no fixed odds in a historical racing system.<sup>12</sup> After the patron has entered their wager, the wagering terminal shows the race and the results. After the race has concluded, the customer may cash out<sup>13</sup> or continue playing.

Historical racing is not currently authorized in the State of Florida.<sup>14</sup> Historical racing is currently authorized and conducted in Arkansas<sup>15</sup> and Alabama.<sup>16</sup>

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<sup>9</sup> See Declaratory Statement No. 2008-46, Division of Pari-mutuel Wagering.

<sup>10</sup> The name of the venue, date of the race, number of the race, name of the horse or dog, and if applicable, the jockey and trainer, are presented in the generic so that the customer cannot determine which race that he or she has received.

<sup>11</sup> This information is represented in the form of performance charts.

<sup>12</sup> As with a live pari-mutuel event, the odds are determined by the wagers of those participating in the pari-mutuel wagering pools for that particular race.

<sup>13</sup> If the patron chooses to cash out he or she receives a ticket/voucher to redeem their winnings at the counter similar to a live race.

<sup>14</sup> See Declaratory Statement No. 2008-46, Division of Pari-mutuel Wagering.

## Occupational Licenses

Section 550.105(1), F.S., provides that an annual occupational license which is valid from May 1 to June 30 is required for all persons specified in s. 550.105(2)(a), F.S. The permitholder can choose the option of purchasing a three year license if the fees are paid for all three years. According to the department, it would be beneficial if they could charge a reduced rate for a three year license as an incentive for people to get a three year license instead of just the one year license.

Section 550.105(2)(a), F.S., specifies the types of persons required to get occupational licenses, breaks down the types of licenses into three categories and the fee required for each business license, professional occupational license, and general occupational license.

The division may bring administrative charges against a person not holding a current license and can declare the person ineligible to hold a license for a certain amount of time under s. 550.105(5)(d), F.S. The division can impose a fine up to \$1,000 for each violation of the rules. The division can also exclude the person from all pari-mutuel facilities for a time not to exceed the period of suspension, revocation, or ineligibility.

Temporary occupational license's may be granted under s. 550.105(6), F.S. However, no temporary occupational license shall be valid for more than 30 days, and no more than one temporary license may be issued for any person in any year. According to the department, it would be beneficial to lengthen this amount of time to allow more thorough application processing.

The required information for the occupational license application including a requirement that each applicant have their signature witnessed and notarized or signed in the presence of a division official is provided in s. 550.105(10), F.S. The department recommends that this requirement be eliminated to allow for electronic application processing.

## Florida Thoroughbred Racing Season

The "Florida Thoroughbred Racing Season" is from June 1 to May 31 pursuant to s. 550.5251, F.S. Each permitholder whose thoroughbred permit was conducted in this state between January 1, 1987 and January 1, 1988 is required to annually apply for race meets during the thoroughbred racing season starting the following June 1. The division will issue the license on or before February 15 of each year. Each permitholder can request changes in its racing schedule up to March 31 of each year. Under s. 550.5251(6), F.S., a permitholder who failed to run all of its races during the 2001-2002 season did not lose its right to retain its permit or is not subject to disciplinary action. Section 550.5251(7), F.S., required that any thoroughbred permitholder must notify the division by July 1, 2002, if it was unable to operate the performances scheduled for the 2002-2003 license. Section 550.5251(6) and (7), F.S., expired on July 1, 2003. According to the

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<sup>15</sup> See *Electronic Gaming Boosts Economy in West Memphis, Hot Springs*, Arkansas Business, 03/16/09 <http://www.arkansasbusiness.com/article.aspx?aID=113197.54928.125340&view=all>

<sup>16</sup> See Alabama Attorney General Opinion No. 2009-020.

division, there is a benefit to providing uniformity by conforming thoroughbred tracks' annual operating dates to all pari-mutuel operating dates.

### **Animal Cruelty**

The division supervises and regulates the welfare of racing animals at the pari-mutuel facilities under s. 550.0251(11), F.S. According to the division, it does not have the authority needed for the humane treatment of racing animals. The division indicated that it cannot conduct the inspections needed to supervise the welfare of the racing animals without the consent of the owners of the racing animals.

Section 550.2415(6)(a), F.S., states the intent of the legislature that all racing animals be treated humanely both on and off the tracks for the lives of the animals. It also states that any conviction of cruelty to animals pursuant to s. 828.12, F.S., involving a racing animal constitutes a violation of this chapter.

### **Use of Electronic Transmitting Equipment**

Section 550.3605, F.S., makes it a misdemeanor of the second degree to possess or control on the premises of a licensed facility any electronic transmitting equipment or device that is capable of transmitting or communicating any information whatsoever to another person, without the written permission of the division. According to the division, this would allow the individual pari-mutuel permitholder the discretion to ban cell phones, iPods, PDAs, or other such electronic devices from their facilities. Removing this prohibition would protect patrons from a potential criminal violation for carrying and using such devices.

### **Quarter Horse Racing**

Section 550.334, F.S., provides for quarter horse racing. Section 550.334(1), F.S., allows any person who meets the qualifications to obtain a permit under ch. 550, F.S., to apply to the Division of Pari-Mutuel Wagering for a license to conduct quarter horse racing. The applicant must demonstrate that the location for the permit is available for quarter horse racing and that the applicant has the financial ability to satisfy the reasonably anticipated operational expenses of the first racing year following the issuance of the permit. If the facility is already built, then the applicant must provide a statement and supporting evidence to the division that the location will be used for quarter horse racing within one year after the date it is granted. The division is required to disapprove the application if it does not meet the requirements of ch. 550, F.S. If a favorable referendum on a pari-mutuel facility has not been held in the county, then a referendum must be ratified by the county electors allowing quarter horse racing in the county.

After a quarter horse permit has been issued, a license is issued and the division is required to annually fix the time, location, and number of days for quarter horse racing by the permitholder.<sup>17</sup> After the permit is issued and the first license is issued, the division is required to evaluate that the permitholder continues to possess the qualification for a permit under ch. 550, F.S. A permit or license may be revoked by the division for a willful violation of ch. 550, F.S.,

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<sup>17</sup> Section 550.334(2), F.S.

and division rules. The division is required to revoke a quarter horse permit that has not conducted any racing before July 7, 1990, unless the permitholder has commenced construction on a horseracing facility within 18 months after October 1, 1990. The 18 months may be extended upon a showing that the construction was delayed by litigation or governmental action.

Section 550.054, F.S., does not allow for pari-mutuel permit applications for horseracing, harness horse racing, or greyhound racing to be considered within 100 miles of an existing pari-mutuel facility or for jai alai within 50 miles of an existing facility. Quarter horse permitholders are not subject to the mileage restrictions found in s. 550.054, F.S.

Quarter horse permitholders are required under s. 550.334, F.S., to obtain the written consent of other pari-mutuel permitholders within 50 miles to conduct intertrack<sup>18</sup> wagering at an operational quarter horse facility.

Quarter horse racing permitholders operating under a valid permit are authorized to substitute races of other breeds of horses, except for thoroughbreds, for no more than 50 percent of the quarter horse races daily and may substitute races of thoroughbreds for no more than 50 percent of the daily races with daily written consent of pari-mutuel permitholders within 50 miles of the quarter horse facility.

A quarter horse permitholder may not substitute thoroughbred racing while a thoroughbred race meet is in progress within 50 miles or within 125 miles of a thoroughbred race meet in progress to a permitholder subject to taxation under s. 550.9515(2)(a).

Quarter horse permits are not eligible for transfer or conversion to another type of pari-mutuel operation.

According to the division, no quarter horse permits are currently in operation.<sup>19</sup>

### **Slot Machines**

Chapter 849, F.S., governs the conduct of gambling in Florida. Section 849.15, F.S., prohibits the manufacture, sale, lease, play, or possession of slot machines in Florida. Subsection (2), provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

Section 849.16, F.S., defines slot machines for purposes of chapter 849, F.S. as:

(1) Any machine or device is a slot machine or device within the provisions of this chapter if it is one that is adapted for use in such a way that, as a result of the insertion of any piece of money, coin, or other object, such machine or device is caused to operate or may be operated and if the user, by reason of any element of chance or of any other outcome of such operation unpredictable by him or her, may:

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<sup>18</sup> Section 550.002(17), F.S., defines intertrack wagering as a “form of wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility.”

<sup>19</sup> As of March 22, 2009, according to David Roberts, Director of the Division of Pari-Mutuel Wagering.

- (a) Receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade; or
- (b) Secure additional chances or rights to use such machine, apparatus, or device, even though it may, in addition to any element of chance or unpredictable outcome of such operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

During the 2004 General Election, the electors approved Amendment 4 to the State Constitution, codified as s. 23, Art. X, Florida Constitution, which authorized slot machines at existing pari-mutuel facilities in Miami-Dade and Broward Counties upon an affirmative vote of the electors in those counties. Both Miami-Dade and Broward Counties held referenda elections on March 8, 2005. The electors approved slot machines at the pari-mutuel facilities in Broward County, but the measure was defeated in Miami-Dade County. Under the provisions of the amendment, four pari-mutuel facilities are eligible to conduct slot machine gaming in Broward County: Gulfstream Park Racing Association, a thoroughbred permitholder; The Isle Casino and Racing at Pompano Park, a harness racing permitholder; Dania Jai Alai, a jai alai permitholder; and Mardi Gras Race Track and Gaming Center, a greyhound permitholder. Legislation was passed during the 2005 Special Session B, HB 1B, ch. 2005-362, L.O.F., that implemented Amendment 4. The division is charged with regulating the operation of slot machines in the affected counties. Of the four eligible in Broward county, all are operating except Dania Jai Alai.

On January 29, 2008, another referendum was held in which the slot machines in Miami-Dade County were approved. Under the provisions of Amendment 4, three pari-mutuel facilities are now eligible to conduct slot machine gaming in Miami-Dade County: Miami Jai-Alai ; a jai-alai permitholder; Flagler Greyhound Track , a greyhound permitholder; and Calder Race Course, a thoroughbred permitholder.

Section 551.102(8), F.S., defines slot machine as:

any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02(24) or an amusement game or machine as described in s. 849.161, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

Section 551.116, F.S., provides that the slot machine gaming areas may be open 365 days a year and open for a maximum of 18 hours per day Monday through Friday and 24 hours per day on Saturday and Sunday and on those holidays specified in s. 110.117(1), F.S.

Section 551.106(2), F.S., provides that the tax rate on slot machine revenues at each facility is 50 percent. The slot machine revenue tax is paid to the division for deposit into the Pari-mutuel Wagering Trust Fund for immediate transfer by the Chief Financial Officer for deposit into the Educational Enhancement Trust Fund of the Department of Education. Any interest earnings on the tax revenues is to be transferred to the Educational Enhancement Trust Fund. Funds transferred to the Educational Enhancement Trust Fund are used to supplement public education funding statewide and shall not be used for recurring appropriations.

### **Payment of Taxes**

The payment of taxes pursuant to s. 550.09511(b), (c), and (d), F.S., is calculated and starts the day after the biweekly period in which the permitholder is first entitled to the reduced rate specified in this section. The payment of taxes pursuant to paragraph (a) is calculated and starts the day after the biweekly period in which the permitholder is first entitled to the reduced rate specified in this section.

Wagering on greyhound racing is subject to a tax on handle<sup>20</sup> for live greyhound racing under s. 550.09514(1), F.S. No tax on handle is paid until there is a tax savings per state fiscal year of \$360,000. After that, each permitholder will pay the tax as specified in s. 550.0951(3), F.S., on all handle for the remainder of the current race meet. The tax must be calculated and commence beginning the day after the biweekly period in which the permitholder reaches the tax savings.

Section 551.106(3), F.S., requires the payment of taxes for slot machine revenues to be paid by 3 p.m. Wednesday of each week. For taxes imposed and collected for the preceding week ending on Sunday. The slot machine licensee shall file a report under oath by the 5<sup>th</sup> day of each calendar month for all taxes remitted during the preceding calendar month.

### **Cardrooms**

A cardroom may be operated only at the location specified on the cardroom license issued by the division and such location may be only where the permitholder is authorized to conduct pari-mutuel wagering activities subject to its pari-mutuel permit. Section 849.086(2)(c), F.S., defines “cardroom” to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility. Authorized games and cardrooms do not constitute casino gaming operations.

Section 849.086(2)(a), F.S., defines an “authorized game” at a cardroom as a game or series of games of poker which are played in a non-banking manner. Authorized cardroom games or series of games of poker may not exceed a \$5 bet with a maximum of three raises in any round of betting.

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<sup>20</sup> Section 550.002(13), F.S., defines “handle” as the “aggregate contributions to pari-mutuel pools.”

A “banking game” is defined in s. 849.086(2)(b), F.S., as “a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers or in which the cardroom establishes a bank against which participants play.”

A cardroom may operate a cardroom at the pari-mutuel facility on any day for a cumulative amount of 12 hours.<sup>21</sup>

In order to renew a cardroom operator license the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior to the application. If the application is for a harness permitholder cardroom, the applicant must have requested authorization to conduct a minimum of 140 live performances during the state fiscal year immediately prior to the application. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing.<sup>22</sup>

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

The committee substitute recognizes that the pari-mutuel industry has played a vital part in the State’s economy and attempts to create additional revenue generating gaming options and to alleviate unduly burdensome regulations to assist the pari-mutuel industry.

#### **Electronic Gaming**

The CS delegates regulatory authority of the electronic gaming machines to the division and authorizes an electronic gaming machine licensee to possess and operate electronic gaming machines at an eligible facility that is not licensed to conduct slot machine gaming.

#### **Definitions**

The CS creates an undesignated section of law and provides the following electronic gaming definitions:

- “Bingo or game of bingo” means bingo as defined in s. 849.0931(1), F.S., whether or not electronic or computer aids are used. In order for a game of bingo to take place, at least two live players must be competing for a common prize. Player gaming machines that contain the game of bingo may not be house-banked games and may not be electronic or electromechanical facsimiles of any game of chance. Bingo consists of players competing against other players for prizes resulting from a random draw or electronic determination and release forming the pre-designated game-winning pattern on an electronic bingo card.
- “Electronic game” means an electronically simulated bingo game played on an electronic gaming machine that, upon insertion of a ticket, or electronic or account-

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<sup>21</sup> Section 849.086(7)(b), F.S.

<sup>22</sup> Section 849.086(5)(b), F.S.

based card, is available to play or simulate a game of bingo played on a network of electronic gaming machines. Electronic gaming machines simulating the game of bingo may not be house-banked. Bonus prizes and progressive prizes may be awarded to players at any licensed facility, and a player may receive a payoff in the form of tickets, or electronic or account-based credits that may be exchanged for cash, merchandise, or other items of value.

- "Electronic gaming machine" means a player station, machine, or device that is required to operate the player station, machine, or device, upon which an electronic game is played or operated. An electronic gaming machine may use spinning reels, video displays, video poker, or other similar technologies available now or in the future to convey outcomes to a player if the results displayed at the gaming machine are based upon simulated bingo game play, as approved by the department. A gaming machine must display one or more bingo cards to be used in the game before numbers or other designations for the game are randomly drawn. Any card in use by a player must be visible to the player during game play. All electronic gaming machines must be directly linked to a central computer for purposes of security, monitoring, and auditing. The central computer may not limit a facility's ability to deploy its electronic player tracking or electronic gaming accounting system. However, such systems must use a widely accepted open communications protocol to ensure interoperability among all manufacturers and to provide a player with the ability to seamlessly alternate play between the electronic gaming machines and electronic gaming machines of different licensed manufacturers. An electronic gaming machine is not a coin-operated amusement machine as defined in s. 212.02, F.S., and does not include an amusement game or machine as described in s. 849.161, F.S. Electronic gaming machines are not subject to the tax imposed by s. 212.05(1)(h), F.S.
- "Eligible facility" means a facility at which a licensee under chapter 550, Florida Statutes, that has run a full schedule of live racing, as defined in s. 550.002(11), for 3 consecutive fiscal years prior to the date of application for an electronic gaming license, and which facility is also a cardroom license holder, and which is not a slot machine facility licensed under chapter 551, Florida Statutes.

### **Powers and Duties of the Department**

The CS creates an undesignated section of law, requiring the division to adopt rules necessary to implement, administer, and regulate the operation of electronic gaming machines. The rules must include:

- Procedures for applying for and renewing electronic gaming machine licenses.
- Technical requirements and qualifications for receiving an electronic gaming machine license.
- Procedures to scientifically test and evaluate electronic gaming machines. The division may contract with an independent testing laboratory to conduct this testing, which has a national reputation indicating that it is competent and qualified for this type of testing. The laboratory may not be owned or controlled by a licensee. The lab must be approved by the division.
- Procedures relating to verifying, accounting, auditing electronic gaming machine revenues and collecting taxes.

- Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to electronic gaming machines that enable the division and the Department of Law Enforcement to audit the operation, financial data, and program information of an electronic gaming machine licensee.
- Procedures to allow the division and the Department of Law Enforcement to monitor, at any time, wagering patterns, payouts, tax collection, and compliance with division rules, including the ability of the division or the Department of Law Enforcement to suspend play immediately on particular electronic gaming machines.
- Procedures to require each licensee, at the licensee's expense, to supply the division a bond having the penal sum of \$2 million payable to the Chief Financial Officer for each year of the licensee's electronic gaming machine operations.
- Procedures to require licensees to maintain specified records and submit any data, information, record, or report, including financial and income records, as required or determined by the division to be necessary.
- A requirement that the payout percentage of an electronic gaming machine facility be no less than 85 percent. The theoretical payout percentage will be determined using standard methods of probability theory.
- Minimum standards for security of the facilities, including floor plans, security cameras, and other security equipment.
- Procedures to require electronic gaming machine licensees to implement and establish drug-testing programs for all electronic gaming machine occupational licensees.

The division is required to conduct any necessary investigations to fulfill its responsibilities. The Department of Law Enforcement and local law enforcement agencies have concurrent jurisdiction to investigate criminal violations and may investigate any other criminal violation of law occurring at the facilities of an electronic gaming machine licensee. Such investigations may be conducted in conjunction with the appropriate state attorney. The division, the Department of Law Enforcement, and local law enforcement agencies have unrestricted access to an electronic gaming machine licensee's facility at all times. The division, the Department of Law Enforcement, and local law enforcement agencies can inspect both the facilities and the machines. The division can also collect the taxes, assessments, fees, and penalties. The division can suspend or revoke the electronic gaming license under certain circumstances.

### **License to Conduct Electronic Gaming**

The CS provides that the electronic gaming machine license can be issued after a completed application and fee is received by the division. The license may only be issued to a person or entity licensed to conduct pari-mutuel wagering under ch. 550, F.S. The conditions of licensure are:

- Continue to comply with this act.
- Continue to comply with ch. 550, F.S., and maintain the pari-mutuel permit and license in good standing.
- Maintain a full schedule of live racing or games or be authorized to conduct limited intertrack wagering.

- If changes are made to the pari-mutuel permit, provide documentation to the division to maintain the electronic gaming license. Changes in ownership or interest of five percent or more must be approved by the division prior to such change. Changes in ownership less than five percent, unless the change results in a cumulative total of more than five percent, must be reported to the division within 20 days.
- Allow the division and Department of Law Enforcement unrestricted access to and right of inspection of facilities of an electronic gaming machine licensee.
- Ensure that the computer system is specifically structured for regulatory oversight. The division and Department of Law Enforcement will be allowed continuous access to this system. The computer system will be reviewed and approved by the division.
- Ensure that the electronic gaming machines and game is protected from manipulation and tampering. The division and Department of Law Enforcement can suspend play if they reasonably suspect any manipulation or tampering of the machines.
- Submit a security plan which meets the minimum security requirements of the division. This plan must be implemented prior to the start of play.
- Create and file a written policy for:
  - Creating opportunities to purchase from vendors in this state, including minority vendors.
  - Creating opportunities for employment of residents of this state, including minority residents.
  - Ensuring opportunities for construction services from minority contractors.
  - Ensuring that opportunities for employment are offered on an equal, nondiscriminatory basis.
  - Training for employees on responsible gaming.
  - The implementation of a drug-testing program that requires each employee to sign an agreement that each employee understands that the facility is a drug-free workplace.
- The electronic gaming facility will use the internet based job-listing system of the Agency for Workforce Innovation to post jobs. The licensee will submit an annual report to the division regarding jobs and minorities.
- Ensure that the payout percentage of an electronic gaming machine facility is no less than 85 percent. The theoretical payout percentage will be determined using standard methods of probability theory.

An electronic gaming machine license is not transferable. The licensee must keep permanent daily records of its operation and maintain these records for at least 5 years. All records must be available to the division for audit and inspection. The division will design forms for monthly reports to be filed by the licensee and are due at the same time as the monthly pari-mutuel report. The electronic gaming machine licensee will file an audit of the revenues provided by an independent certified public accountant with the division. The division may share information with other law enforcement agencies.

### **Electronic Gaming Licensee Agreements**

The CS provides for agreements that are binding written agreements between the applicant for

licensure and the Florida Horsemen's Benevolent and Protective Association, Inc., or the association representing a majority of the thoroughbred owners and trainers at the applicant's eligible facility; the Florida Standardbred Breeders and Owners Association, Inc. or the association representing a majority of the standardbred owners and trainers at the applicant's eligible facility; the Florida Greyhound Association, Inc. or the association representing a majority of the greyhound owners and trainers at the applicant's eligible facility; the Florida Quarter Horse Racing Association, Inc. or the association representing a majority of the quarter horse owners and trainers at the applicant's eligible facility; or the International Jai Alai Players Association or a binding written agreement approved by the majority of the jai alai players at the applicant's eligible facility. The agreement shall govern the payment of purses on live thoroughbred races conducted at the retailer's pari-mutuel facility. A binding written agreement between the Florida Breeders' Association, Inc., governing the payment of breeders', stallion, and special racing awards on live thoroughbred races conducted at the retailer's pari-mutuel facility must also be on file with the division.

### **Temporary Licenses**

The CS provides that the division can grant a temporary occupational license after it determines it has received a completed application and a determination has been made that the applicant has not been convicted of or had adjudication withheld on any disqualifying criminal offense. Not more than one temporary license may be issued for any person in any year. Temporary occupational licenses are valid until the division grants an occupational license or notifies the applicant of its intent to deny the license. Temporary licenses are not transferable.

### **License Fees**

With the application and annually thereafter, the licensee must pay a license fee of \$1 million for each 12 months of licensure. The money is to be deposited into the Pari-mutuel Wagering Trust Fund of the DBPR to be used for investigations, regulation of electronic gaming, and enforcement of electronic gaming provisions. The division will evaluate the license fee and submit recommendations in the legislative budget request regarding the amount of money necessary to operate the regulatory program.

### **Tax on Electronic Gaming Machine Revenues**

The CS provides that the tax on electronic gaming machine revenues at each facility will be 35 percent. The money will be paid to the division for deposit into the Pari-mutuel Wagering Trust Fund for immediate transfer into the Educational Enhancement Trust Fund of the Department of Education. Any interest earnings are also transferred. The money transferred is to be used to supplement public education funding statewide. The money is to be first used to pay debt service on lottery bonds issued to fund school construction in the event lottery revenues are insufficient. An electronic gaming machine licensee who does not make the tax payments required, is subject to an administrative penalty of up to \$10,000 for each day the tax payment is not remitted. If the penalties are not paid, the division may suspend, revoke, or refuse to renew the license. Funds may be required to be remitted via electronic funds transfer.

## **Electronic Gaming Machine Occupational License**

Electronic gaming machine occupational licenses are issued to applicants that might be granted access to electronic gaming machine areas for purposes of food service, maintenance, other similar services and support employees, persons in a capacity to manage or supervise, security personnel, or other oversight positions, maintenance or repair personnel that are not employees, nonemployees that are manufacturers, distributors, or sellers of equipment or machines, or goods or services associated with electronic gaming. Licenses can be combined as appropriate under this section. This section outlines the requirements for fees, fingerprints, and the denial, suspension or revocation of the license.

### **Prohibited Relationships**

A person employed by or performing any function on behalf of the division may not:

- Be an officer, director, owner, or employee of any person or entity licensed by the division.
- Have or hold any interest in or engage in any business relationship with any person licensed by the division.
- Wager on an electronic gaming machine located at a facility licensed by the division. This includes any relative living with the employee.

A manufacturer or distributor of electronic gaming machines cannot:

- Enter into a contract with an electronic gaming machine licensee which provides for any revenue sharing.
- Have any ownership or financial interest in an electronic gaming machine license or business owned by an electronic gaming machine licensee.

An occupational licensee or relative living with the licensee cannot wager on an electronic gaming machine located at a facility operated by the licensee.

### **Prohibited Acts**

The CS provides that a person who knowingly makes, or causes, aids, assists, or procures another to make a false statement in any report, disclosure, application, or other document required by this act or any rule adopted under this act is subject to an administrative fine or civil penalty of up to \$10,000. A person who possesses an electronic gaming machine without a license or at the wrong location is subject to an administrative fine or civil penalty of up to \$10,000 per machine. This prohibition does not apply to:

- Electronic gaming machine manufacturers or distributors that hold appropriate licenses.

- Certified educational facilities that are authorized to maintain electronic gaming machines for education and licensure of electronic gaming machine technicians, inspectors, or investigators.

A person who knowingly or attempts to exclude anything of value from the deposit, counting, collection, or computation of revenues from electronic gaming machine activity, or a person who by trick, sleight-of-hand performance, fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or a combination thereof, or reduces or attempts to reduce a losing wager in connection with electronic gaming commits a felony of the third degree.

A person who manipulates or attempts to manipulate the outcome, payoff, or operation of an electronic gaming machine by physical tampering commits a felony of the third degree. Theft of gaming machine proceeds or property belonging to an electronic gaming machine operator, licensee, or licensed facility by an officer, partner, owner, or employee of a person contracted to provide services constitutes a felony of the third degree. A law enforcement officer or electronic gaming machine operator who has probable cause to believe a person has committed a violation and that officer or operator can recover the lost proceeds from the activity by taking the person into custody, can take into custody at the facility and detain the person in a reasonable manner for a reasonable time. Penalties imposed and collected under this section are to be deposited in the Pari-mutuel Wagering Trust Fund.

### **Exclusion of Certain Persons**

The CS states that the division may exclude any person from a facility of an electronic gaming machine licensee for violations of this act or of division rules. The division may also exclude a person who has been ejected or excluded from a facility in another state.

### **Electronic Gaming Minimum Age**

The CS provides that a person who is not 18 years of age may not operate or play an electronic gaming machine, have access to the designated gaming area, or be an employee with access to the designated gaming area. A licensed facility must post a sign which states notice of this information.

### **Electronic Gaming Machine Areas**

The CS provides that an electronic gaming machine licensee is authorized to have up to 1,000 electronic gaming machines within the designated electronic gaming machine area. No more than 1,000 electronic gaming machines shall be authorized at a facility regardless of the number of permitholders conducting operations at the facility. The electronic gaming machine licensee will display pari-mutuel races or games within the designated gaming area and offer patrons the opportunity to wager on live races or games. The division requires the posting of signs warning of the risks and dangers of gambling giving a toll-free telephone number to provide information and referral services. The designated electronic gaming machine area may be located within the current live gaming facility or an existing building that is contiguous and connected to the live

gaming facility. If a building for the designated gaming area has not been constructed, it must be constructed to be contiguous and connected to the live gaming facility.

### **Department Office Space**

The CS provides that the electronic gaming machine licensee must provide adequate office space at no cost to the division and the Department of Law Enforcement for regulatory oversight.

### **Hours**

The CS provides that electronic gaming machine areas may be open daily; a cumulative total of 18 hours per day on Monday through Friday and 24 hours per day on Saturday and Sunday and on holidays specified in s. 110.117(1), F.S.

### **Penalties**

The CS provides that the division may revoke or suspend an electronic gaming machine license for a willful violation of any provision of this act or rule adopted under this act. In lieu of revocation or suspension, the division may impose a civil penalty against the licensee up to \$100,000 for each count or separate offense. All fines must be deposited into the Pari-mutuel Wagering Trust Fund.

### **Compulsive Gambling Program**

The CS provides that each licensee will train employees on responsible gaming and work with a compulsive or addictive gambling prevention program to recognize problem gaming situations and implement responsible gaming programs and practices. The division will, subject to competitive bidding, contract for services in this area. An advertising program is required publicizing a telephone hotline. If this program is not complied with, it can be grounds for nonrenewal of licensure. This program will be funded from an annual nonrefundable regulatory fee of \$250,000 paid by each licensee.

### **Caterer's License**

That CS provides that an electronic gaming machine licensee is entitled to a caterer's license pursuant to s. 565.02, F.S., on days on which the pari-mutuel facility is open to the public for electronic gaming machine play.

### **Other Prohibited Activities**

The CS provides that the following activities are prohibited:

- Complimentary or reduced-cost alcoholic beverages may not be served to persons in the designated electronic gaming machine area.
- An electronic gaming machine licensee cannot make loans, provide credit, or advance cash to enable a person to play.

- An automated teller machine may not be located within the designated electronic gaming machine area.
- An electronic gaming machine licensee cannot accept or cash a check from any person in the gaming area.
- Except under certain circumstances for employees, a licensee can not accept or cash for any person a government-issued check, third-party check, or payroll check made payable to an individual.
- Electronic gaming machines may accept tickets or electronic or account-based cards for wagering and return or deliver payouts to the players in the form of tickets or electronic or account-based credits that may be exchanged for cash, merchandise, or other items of value. The use of coins, currency, credit, or debit cards, tokens, or similar objects is prohibited.

### **Exceptions**

The CS provides that this act does not apply to bingo aides used in bingo games conducted by charitable, nonprofit, or veterans' organizations authorized to conduct bingo under s. 849.0931, F.S. This act does not apply to game promotions or operators regulated under s. 849.094, F.S.

Electronic gaming machines are not subject to the provisions of s. 849.0931, F.S., which regulate charitable bingo activities. Taxes imposed on electronic gaming and electronic gaming machines at eligible pari-mutuel facilities are exempt from the appropriation required by s. 215.20(1), F.S. Electronic gaming is added to s. 849.15(2), F.S., as exempt from the provisions of 15 U.S.C. ss. 1171-1177.

### **Appropriation**

The CS allows for undesignated positions and an undesignated appropriation in recurring and nonrecurring funds for the 2009-2010 fiscal year from the Pari-mutuel Wagering Trust Fund of the Department of Business and Professional Regulation (DBPR) for the purpose of regulating electronic gaming. The Executive Office of the Governor is required to put these positions and funds in reserve until DBPR submits an expenditure plan for approval subject to s. 216.177, F.S.

An undesignated amount of recurring and nonrecurring funds for the 2009-2010 fiscal year are appropriated from the Pari-mutuel Wagering Trust Fund of DBPR for transfer to the Department of Law Enforcement for the purpose of investigations, and other responsibilities. An undesignated amount of recurring and nonrecurring funds and number of positions are requested for the 2009-2010 fiscal year to be appropriated from the Operating Trust Fund of the Department of Law Enforcement for the purpose of investigations and other responsibilities. The Executive Office of the Governor will put these positions and funds in reserve until the Department of Law Enforcement submits an expenditure plan for approval subject to s. 216.177, F.S.

One million dollars is appropriated annually from the Pari-mutuel Wagering Trust Fund of DBPR for contract services related to addictive gambling programs.

DBPR may use the unreserved cash balance in the Pari-mutuel Wagering Trust Fund received from other revenue sources to implement electronic gaming regulation and investigations during fiscal year 2009-2010. Beginning as soon as possible, but no later than the 2010-2011 fiscal year, DBPR will repay the funds with electronic gaming machine license revenue sources.

### **Florida Thoroughbred Racing Season**

This CS amends s. 550.01215(3), F.S., changing the deadline for the issuance of the annual operating date's licenses for the thoroughbred permitholders to the same date as the other permitholders, which is March 15 of each year.

The CS amends s. 550.5251, F.S., deleting subsection (1) and the annual thoroughbred race dates for specified permitholders. The CS changes the start date of the racing season from June 1 to July 1. It requires the division to issue the license by March 15 instead of February 15. It allows permitholders to request changes in race performances by February 28 instead of March 31 of each year. The CS deletes subsection (3) including provisions requiring summer thoroughbred horse racing permits. The CS deletes subsection (6) including expired permit provisions for the 2001-2002 thoroughbred licenses. The CS deletes subsection (7) including expired provisions relating to failure to operate all thoroughbred performances.

### **Instant Racing**

The CS amends the definition of "simulcasting" in s. 550.002(32), F.S., to include *recorded* events in the broadcast of events from either an in-state facility to an out-of-state facility or an out-of-state facility to an in-state facility. The CS also defines "Historical Racing System" in s. 550.002(32), F.S. as:

"...a form of pari-mutuel wagering based on audio or video signals of in-state or out-of-state races that are sent from an in-state server and operated by a licensed totalisator company which are displayed at individual wagering terminals at licensed pari-mutuel facilities."

The CS creates s. 550.810, F.S., which authorizes historical racing at licensed pari-mutuel facilities, provided that:

- No identifying information about any race or the competing horses or dogs in that race is revealed until after the patron's wager is irrevocably placed;
- The results of a patron's wager are shown to the patron using video or mechanical displays, or both, and the patron has the opportunity to view all or any portion of the race;
- The historical racing takes place under a licensed pari-mutuel permit that has run two years of full schedules of live racing as of the end of fiscal year 2009; and
- The licensed pari-mutuel permit holder has paid the \$1 million fee to operate.

The CS allows for licensed jai alai, greyhound, harness, thoroughbred, and quarterhorse facilities to have 500 machines per facility so long as they have run a full schedule of live races for the proceeding three years and so long as the facility is also a licensed cardroom facility. The CS

also directs the Division of Pari-mutuel Wagering to adopt rules regarding regulation of historical racing systems.

The CS amends s. 550.0951, F.S. and creates subsection (5), which sets the tax rate of historical racing at 4% of the handle. The CS also directs the permitholders to enter into an agreement concerning purses and breeders' awards before they are authorized to conduct historic racing.

### **Breeders' and Stallion Awards**

The CS permits greater flexibility authorizing breeders' awards to be greater than 20 percent or less than 15 percent of the announced gross purse and authorizes the rates to vary for breeders' awards to be based upon the place of finish, class of race, state or country in which the race took place, and the state in which the stallion siring the horse was standing when conceived.

The CS authorizes stallion awards to be greater than 20 percent and not less than 15 percent of the announced gross purses and authorizes the rates to vary for stallion awards to be based upon the place of finish, class of race, state or country in which the race took place, and the state in which the stallion siring the horse was standing when conceived. Also the section provides that stallion awards may be eliminated to enhance breeders' or other awards.

The CS authorizes payment of awards from funds dedicated for payment of breeders' and stallion awards for Florida bred horses without regard to any awards paid pursuant to s. 550.2625(6), F.S.

### **Animal Cruelty**

The CS amends s. 550.0251(11), F.S., adding rulemaking authority for the humane treatment of racing animals at pari-mutuel facilities. The CS also gives the division the ability to inspect any area at a pari-mutuel facility where racing animals are housed or maintained, including where food, medications, or other supplies are kept.

The CS amends s. 550.2415(6)(a) and (d), F.S., granting the division rule authority for the supervision and regulation of the welfare of racing animals at pari-mutuel facilities. It deletes the reference to conviction and changes it to any act committed by a licensee which would constitute cruelty to animals as defined by s. 828.02, F.S., involving any animal, not just a racing animal, constitutes a violation of this chapter. Imposing a penalty for violation of this chapter or any rule does not prohibit prosecution for cruelty to animals.

### **Tax Payments**

The CS amends s. 550.0951(1)(b), F.S., deleting biweekly tax payments and changing it to payments. It amends s. 550.0951(5), F.S., providing for payments on the 5th day of the calendar month instead of weekly. If the 5<sup>th</sup> day of the calendar month falls on a weekend, payments will be remitted by 3 p.m. the first Monday following the weekend.

The CS amends s. 550.09511(2)(e) and (3)(b), F.S., deleting “after the biweekly period,” so that the calculation begins the first day the permitholders are entitled to the reduced rate specified in this section.

The CS amends s. 550.09514(1), F.S., deleting the requirement that the tax calculation begin the day after the biweekly period in which the permitholder reaches the tax savings.

The CS amends s. 551.106(3), F.S., changing weekly tax payments on slot revenues to a monthly payment on the 5<sup>th</sup> day of the calendar month, which conforms with the required monthly tax report.

### **Occupational Licenses**

The CS amends s. 550.105, F.S., providing greater flexibility to the division in administering occupational licenses. The CS deletes the provision that requires a person to purchase an annual license and provides that a license shall be valid up to three years. The CS provides flexibility in the amount that may be charged for the three year occupational license providing that the fee shall not exceed \$50 for a 12-month period for a business occupational license, \$40 for a professional individual occupational license in a 12-month period, and \$10 for a general occupational license in a 12-month period.

The CS creates paragraph (e) defining the term “convicted” to conform to the term convicted in the slot machine statutes, meaning “having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.”

The CS amends s. 550.105(6), F.S., deleting the 30 day validity of the temporary occupational license and allowing a temporary occupational license to be valid for no more than 90 days.

The CS amends s. 550.105(10), F.S., deleting the requirement that an applicant have his or her signature witnessed and notarized.

The CS creates subparts (b), (c), and (d) of s. 550.105(10), F.S., to require that fingerprints be submitted to the Department of Law Enforcement and entered into the statewide automated fingerprint identification system for all purposes and uses authorized for arrest fingerprint cards. It also requires that the prints be retained and if an arrest record is identified with the retained fingerprints, that the division shall be notified. In addition, the CS provides that the division shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check at least once every 5 years.

### **Quarter Horse Permitholders**

The CS provides that a full schedule of live racing for quarter horses is 20 races in 2009, 30 races in 2010 and 2011, and 40 races thereafter.

The CS removes the quarter horse specific application procedure and subjects quarter horse application procedures to the same criteria required of all other pari-mutuel permitholders.

The CS removes the requirement that a quarter horse permitholder receive the written consent of other pari-mutuel permitholders within 50 miles to conduct intertrack wagering.

The CS removes the quarter horse exemption to s. 550.054, F.S., making them subject to the mileage restrictions on pari-mutuel facility locations and application criteria found in the section.

### **Slot Machine Provisions**

The CS amends s. 551.106, F.S., changing the tax rate on slot machine revenues at each facility from 50 percent to 35 percent.

The CS reduces the annual license fee from \$3 million dollars to \$2 million dollars. The CS permits progressive gaming in this state and in other jurisdictions and allows for a minimum 85% payout from the slot machine facility rather than per each machine.

### **Cardroom Provisions**

The CS permits cardroom permitholders to operate the cardroom 18 hours per day Monday through Friday and 24 hours per day Saturday and Sunday. The CS clarifies that the hours are per facility and not per license holder. The hours are extended to match the hours of operation for slot machine gaming and for electronic gaming machine operations.

The CS removes the \$5 maximum bet and limits on tournament betting. The CS provides that locations in Miami-Dade and Broward that have slot machines will be able to offer the game of blackjack if the Seminole Tribe compact is properly executed, accepted by the Department of the Interior, and properly published in the Federal Register provided that the compact authorizes the Seminole Tribe additional games.

**Full Schedule of Live Racing Required for Three Years Before New Games Permitted**

**Actual Performances for All Associations by Calendar Year**

<b>Greyhound</b>					<b>Jai Alai<sup>23</sup></b>				
<b>Permitholder</b>	<b>Full Schedule</b>	<b>2007</b>	<b>2008</b>	<b>2009<sup>24</sup></b>	<b>Permitholder</b>	<b>Full Schedule</b>	<b>2007</b>	<b>2008</b>	<b>2009<sup>25</sup></b>
Bayard	100	105	120	154	Dania	100	240	240	256
Daytona Beach	100	439	402	420	Florida	40	80	81	80
Flagler	100	361	311	259	Ft. Pierce	40	40	44	43
H&T @Mardi Gras <sup>26</sup>	100	117	22	145	Miami	100	224	213	223
Jacksonville	100	113	110	120	Ocala	40	51	40	44
Jefferson County	100	228	234	226	Richmond	100	252	101	100
Mardi Gras	100	181	219	132	Summer	100	218	203	192
Melbourne	100	187	101	104	Summersport	100	171	171	153
Naples-Ft. Myers	100	415	411	401	<b>Thoroughbred</b>				
Orange Park	100	202	184	112	Calder	40	112	109	179
Palm Beach	100	465	467	465	Gulfstream	40	87	89	79
Penn Sanford	100	225	189	158	Tampa Bay Downs	40	94	93	94
Pensacola	100	257	204	219	Tropical Park	40	60	51	50
Sarasota	100	414	187	187	<b>Harness</b>				
SOKC	100	232	212	120	Pompano Park	100	172	158	125
St. Petersburg	100	296	229	207					
Tampa	100	227	209	209					
Washington County	100	261	246	180					

<sup>23</sup> Ocala Jai Alai, Ft. Pierce Jai Alai, and Florida Jai Alai are authorized to conduct 40 performances, because they conducted 100 performances for 10 consecutive years from 1993 thru 2002, and their handle was less than \$4 million for 2 consecutive years.

<sup>24</sup> Scheduled for 2009.

<sup>25</sup> Scheduled for 2009.

<sup>26</sup> Pursuant to s. 550.615(2), F.S., the division determined its analysis must be conducted based upon facility location rather than permit. H & T Gaming (previously Bet Miami) is owned and operated by Mardi Gras. During the 2007/2008 racing season, H & T Gaming scheduled and held 139 performances and 145 performances were scheduled for the 2008/2009 racing season. The 'full schedule' of racing, calculated on the calendar year, calculates to only 22 performances held in 2008. These 22 performances would be included with Mardi Gras' 219 performances, which results in authority to hold intertrack and simulcast wagering, operate their cardroom, and their slot facility. The slot license is under the Mardi Gras permit.

**All In-Active Permits**

Corporate Name	Operating Name	City	Last Year of Operation
<b>Greyhound</b>			
North American Racing Association		Key West	1990/1991
<b>Jai Alai</b>			
Florida Gaming Centers	Tampa Jai Alai	Tampa	1998/1999
Gadsden Jai-Alai Inc		Chattahoochee	1989/1990
Investment Corp of Palm Beach	Palm Beach Jai Alai	West Palm Beach	1994/1995
Volusia Jai-Alai	Daytona Beach Jai Alai	Daytona Beach	1991/1992
<b>Quarter Horse<sup>27</sup></b>			
Debary Real Estate Holdings, LLC		Debary	
ELH Jefferson, LLC			
Gretna Racing, LLC			
Gulfstream Park Racing Association		Debary	
Hamilton Downs, Inc		Jennings	
PPI, Inc.	Pompano Park Racing		1991
South Florida Racing Association, LLC	Hialeah Park	Hialeah	
Tampa Bay Downs, Inc.		Oldsmar	1975
Non-Wagering Permit			
Ocala Breeders' Sales Co.		Ocala	2007/2008

The CS requires pari-mutuel permit holders to have run a full schedule of live racing for the three years prior to application in order to qualify for the electronic gaming machines and the historical racing systems. In addition, the permit holder also must have a cardroom license before being permitted to conduct the additional games.

Currently, there are eighteen greyhound permits that are required to have one hundred performances to have a full schedule. All eighteen permit holders have met or exceeded that amount in the last three years and would thus qualify for electronic gaming machines and historical racing.

Currently, there are eight active jai alai permit holders. Florida, Ft. Pierce and Ocala Jai Alai are only required to have forty performances in order to have a full schedule. Dania, Miami, Richmond, Summer, and Summersport Jai Alai are required to have one hundred performances to have a full schedule. All the permit holders have met or exceeded a full schedule in the last three years and would thus qualify for electronic gaming machines.

Currently, there are four active thoroughbred permit holders. The permit holders are required to run forty performances in order to have a full schedule. All the permit holders have met or exceeded a full schedule in the last three years.

<sup>27</sup> No quarter horse permit holder has applied for an operating license for live racing as of this date.

There is one active harness track permitholder. The permitholder is required to have run one hundred performances for a full schedule. The permitholder has exceeded that amount in the last three years.

There is one inactive greyhound permit, four inactive jai alai permits, eight inactive quarter horse permits, and one non-wagering permit. None of these permitholders have run a full schedule for the last three years and would not qualify for electronic gaming machines or historical racing.

### **Effective Date**

Sections 1 and 51 of this committee substitute will take effect upon becoming a law if SB 788 or substantially similar legislation is adopted during the 2009 legislative session, or an extension thereof, and becomes law; however, sections 2 through 50 of this act shall take effect after the Governor and an authorized representative of the Seminole Tribe of Florida execute an Indian gaming compact pursuant to the Indian Gaming Regulatory Act of 1988 and the requirements of SB 788, or similar legislation, if such compact is approved or deemed approved by the United States Department of the Interior, as evidenced by its publication in the Federal Register, on the date that the approved compact is published in the Federal Register.

## **IV. Constitutional Issues:**

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

None.

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

None.

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

None.

## **V. Fiscal Impact Statement:**

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

The CS reduces the \$3 million annual license fee to \$2 million per eligible pari-mutuel slot facility. It also provides for a \$1 million per eligible historic racing license holder and \$1 million per eligible electronic gaming license holder annual fee.

This CS reduces the tax rate for slot machine licensees from 50 percent to 35 percent.

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

The CS provides for additional gaming opportunities that could generate additional revenue for the pari-mutuel facilities. The CS provides for longer hours for cardroom operations and for persons 18 years of age to be permitted to play slot machines,

electronic gaming, and use historic racing systems. The longer hours and ability for persons 18 years and older to play the additional games, should result in additional revenue to the facilities. In addition, the CS should reduce costs to the facilities with monthly tax payments instead of weekly or biweekly payments.

**C. Government Sector Impact:**

The CS should reduce regulatory costs. It conforms the tax payments and monthly report into one monthly process for the division. The CS provides greater flexibility in the division's ability to offer occupational licenses that are valid for more than one year. The CS clarifies definitions and deletes expired provisions. In addition, the additional gaming opportunities and extended hours of operation for the pari-mutuels should result in additional tax revenue for the state.

**VI. Technical Deficiencies:**

The CS lowers the age for persons who are able to play or operate slot machines from 21 to 18 years. The CS makes that change in s. 551.113(1), F.S., but has not made the required change for s. 551.113(2), F.S. Section 551.113(2), F.S., provides that a slot machine licensee or employee may not knowingly allow a person under 21 to play or operate a slot machine. This is inconsistent with the intent of the change to make slot machines available for all persons to operate and play slot machines at the age of 18.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Regulated Industries on March 25, 2009:**

The committee substitute (CS) replaces the legislative intent to revise the laws relating to pari-mutuel wagering with language that attempts to eliminate unnecessary regulations, provide consistency between provisions, streamline regulatory procedures, and authorize additional games to pari-mutuel facilities. (Refer to Effect of Proposed Changes section of this analysis.)

The CS clarifies from the PCS that historic racing must be from in-state servers. The CS provides that historic racing shall be taxed at 4% and that the annual fee for authorization to conduct historic racing is \$1 million dollars per year. The CS provides that historic racing can be played at jai alai fronts, greyhound tracks, quarter horse, thoroughbred, and harness horse facilities. It requires that the facility must first reach an agreement governing the payment of purses and breeders' awards before the facility will be authorized to conduct historic racing.

The CS provides a “progressive system”, as defined in ch. 551, F.S., includes linking machines in this state and in other jurisdictions. The CS allows slot machine facilities to use progressive systems with other facilities in this state and in other jurisdictions.

The CS provides that a full schedule of live racing for quarter horse racing involves 20 performances in 2009, 30 performances in 2010 and 2011, and 40 performances thereafter.

**B. Amendments:**

None.