The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Jones, Chair
Senator Sachs, Vice Chair

MEETING DATE: Wednesday, March 9, 2011
TIME: 1:00 —3:00 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Jones, Chair; Senator Sachs, Vice Chair; Senators Altman, Braynon, Dean, Diaz de la Portilla, Hill, Norman, Rich, Siplin, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 288** Negron (Similar H 605)	Design Professionals; Provides for limited liability for engineers, surveyors and mappers, architects, interior designers, and registered landscape architects as a result of construction defects resulting from the performance of a contract. Provides that, if a contract requires professional liability insurance, the contract may not limit the liability of the design professional in a manner that is inconsistent with the insurance requirements, etc. RI 03/09/2011 JU BC	
2	**SB 544** Joyner (Similar H 175)	Barbering; Provides for the selection and placement of barbering interns. Requires a school of barbering or a barbering program to provide written notice to the Barbers' Board regarding the internship sponsor and the barbering intern. Requires a barbering intern to possess written authorization to practice barbering. Requires the board to establish education prerequisites for barbering internships. Provides a limit on the registration fee for internship sponsors, etc. RI 03/09/2011 HE BC	
3	**SB 746** Altman (Similar H 105)	Open House Parties; Provides that a person who violates the open house party statute a second or subsequent time commits a misdemeanor of the first degree. Provides that a person commits a misdemeanor of the first degree if the violation of the open house party statute causes or contributes to causing serious bodily injury or death. Provides criminal penalties. RI 03/09/2011 CJ BC	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 650** Jones (Identical H 423)	Mobile Home Park Lot Tenancies; Provides for local enforcement of violations of provisions establishing the obligations of mobile home park owners and mobile home owners. Prohibits liens, penalties, fines, or other administrative or civil proceedings against one party or that party's property for a duty or responsibility of the other party, etc. RI 03/09/2011 CA RC	
5	**SB 666** Ring (Compare H 217, S 576, Link S 668)	Governmental Reorganization; Transfers and reassigns certain functions and responsibilities, including records, personnel, property, and unexpended balances of appropriations and other resources, from the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to the Department of Gaming Control. Transfers certain trust funds from the Department of Business and Professional Regulation to the Department of Gaming Control. Establishes the Department of Gaming Control, etc. RI 03/09/2011 GO BC	
6	**SB 668** Ring (Link S 666)	Florida Gaming Trust Fund/Dept. of Gaming Control; Creates the Florida Gaming Trust Fund within the Department of Gaming Control. Provides the funding sources and purpose of the trust fund. Requires funds to remain in the trust fund at the end of each fiscal year. Provides for future review and termination or re-creation of the trust fund. RI 03/09/2011 GO BC	

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:	SB 288
INTRODUCER:	Senator Negron
SUBJECT:	Design Professionals
DATE:	February 21, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Pre-meeting**
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill limits the tort liability of licensed engineers, surveyors and mappers, architects, interior designers, and landscape architects (design professionals). It limits the potential tort claims for recovery of economic damages resulting from a construction defect that may be filed by a claimant contracting for the professional services of a design professional.

The tort liability limitation for design professionals does not apply if:

- The contract for professional services of the design professional requires professional liability insurance and the contracting party fails to maintain insurance coverage as specified in the contract;
- The claim relates to economic damages resulting from personal injury;
- The claim relates to damage to property that is not the subject of the contract;
- The contract or agreement was entered into before July 1, 2011 (the effective date of the bill); or
- The professional services were performed before July 1, 2011 (the effective date of the bill).

The bill provides an effective date of July 1, 2011.

This bill amends the following sections of the Florida Statutes: 471.023, 472.021, 481.219, and 481.319. The bill creates section 558.0035, Florida Statutes.

II. Present Situation:

Personal Liability for Professional Services

Section 621.07, F.S., provides for the personal liability of an officer, agent, member, manager, or employee of a corporation or limited liability company with regard to negligence, wrongful acts, or misconduct committed by that person while rendering professional services. It provides that the limited liability provided to professional service corporations and limited liability companies shall not:

> be interpreted to abolish, repeal, modify, restrict, or limit the law now in effect in this state applicable to the professional relationship and liabilities between the person furnishing the professional services and the person receiving such professional service and to the standards for professional conduct; provided, however, that any officer, agent, member, manager, or employee of a corporation or limited liability company organized under this act shall be personally liable and accountable only for negligent or wrongful acts or misconduct committed by that person, or by any person under that person's direct supervision and control, while rendering professional service on behalf of the corporation or limited liability company to the person for whom such professional services were being rendered; and provided further that the personal liability of shareholders of a corporation, or members of a limited liability company, organized under this act, in their capacity as shareholders or members of such corporation or limited liability company, shall be no greater in any aspect than that of a shareholder-employee of a corporation organized under chapter 607 or a member-employee of a limited liability company organized under chapter 608. The corporation or limited liability company shall be liable up to the full value of its property for any negligent or wrongful acts or misconduct committed by any of its officers, agents, members, managers, or employees while they are engaged on behalf of the corporation or limited liability company in the rendering of professional services.

Engineers

Professional engineers are regulated by the Board of Professional Engineers within the Department of Business and Professional Regulation (department), which enforces and administers the provisions of ch. 471, F.S. Existing law provides the following education and experience requirements for a person to qualify to take the examination for licensure as an engineer:

- Graduating from an approved engineering curriculum of four years or more in a school, college, or university which has been approved by the board and has a record of four years of active engineering experience of a character indicating the competence to be in responsible charge of engineering;
- Graduating from an approved engineering technology curriculum of four years or more in a school, college, or university within the State University System, having been enrolled or having graduated prior to July 1, 1979, and having had a record of four years of active

engineering experience of a character indicating competence to be in responsible charge of engineering; or

- Having, in lieu of the education and experience requirements, 10 years or more of active engineering work of a character indicating that the applicant is competent to be placed in responsible charge of engineering.[1]

Engineer Liability

Licensed engineers may practice through a business organization, including a partnership, corporation, or other legal entity offering professional services. Current law establishes the liability of engineers when practicing through a business organization, including the liability of partners in a partnership and of the business organization's officers, agents, or employees for negligence, misconduct, or wrongful acts.[2] Section 471.023(3), F.S., provides that the "fact that a licensed engineer practices through a business organization does not relieve the licensee from personal liability for negligence, misconduct, or wrongful acts committed by him or her." With regard to the extent of a licensed engineer's liability for his or her own negligence, misconduct, or wrongful acts while employed by a business organization, s. 471.023(3), F.S., also provides that:

> any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control, while rendering professional services on behalf of the business organization.

Partnerships and all partners are also jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity.[3] A business organization is liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.[4]

Surveyors and Mappers

Surveyors and mappers are regulated by the Board of Professional Surveyors and Mappers within the Department of Agriculture and Consumer Services, which enforces and administers the provisions of ch. 472, F.S.[5] Existing law provides the following education and experience requirements for a person to qualify to take the examination for licensure as a surveyor and mapper:

- Receiving a degree in surveying and mapping of four years or more in a surveying and mapping degree program from a college or university recognized by the board and having

[1] Section 471.013(1), F.S.
[2] Section 471.023, F.S.
[3] Section 471.023(3), F.S.
[4] *Id.*
[5] The regulation of surveyors and mappers was transferred from the Department of Business and Professional Regulation to the Department of Agriculture and Consumer Services by ch. 2009-66, L.O.F.

a specific experience record of four or more years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.

- Being a graduate of a four-year course of study, other than in surveying and mapping, at an accredited college or university and having a specific experience record of six or more years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping, five years of which are of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.[6]

Surveyors and Mappers Liability

Licensed surveyors and mappers may practice through a corporation or partnership. Current law establishes the liability of surveyors and mappers when practicing through a corporation or partnership.[7] "The fact that any registered surveyor and mapper practices through a corporation or partnership shall not relieve the registrant from personal liability for negligence, misconduct, or wrongful acts committed by him or her."[8]

In regard to the extent of a licensed mapper and surveyor's liability for his or her own negligence, misconduct, or wrongful acts while employed by a business organization, s. 472.021(3), F.S., also provides that:

> any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control while rendering professional services on behalf of the business organization.

Partnerships and all partners are also jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity.[9] A business organization is liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.[10]

Architects and Interior Designers

Architects are regulated by the Board of Architecture and Interior Design within the Department of Business and Professional Regulation, which enforces and administers the provisions of part I of ch. 481, F.S. Existing law provides the following education and experience requirements for a person to qualify to take the examination for licensure as an architect:

[6] Section 472.013(2), F.S.
[7] Section 472.021(3), F.S.
[8] *Id*.
[9] *Id.*
[10] *Id*.

- Graduating from a school or college of architecture accredited by the National Architectural Accreditation Board, or from an approved architectural curriculum at an unaccredited school or college of architecture approved by the board; and
- Completing one year of the internship experience required by s. 481.211(1), F.S.[11]

Current law provides the following education and experience requirements for a person to qualify to take the examination for licensure as an interior designer:

- Graduating from a board-approved interior design program of five years or more and completing one year of diversified interior design experience;
- Graduating from a board-approved interior design program of four years or more and completing two years of diversified interior design experience;
- Completing at least three years of a board-approved interior design curriculum and completing three years of diversified interior design experience; or
- Graduating from an interior design program of at least two years and completing four years of diversified interior design experience.[12]

Architects and Interior Designers Liability

Licensees may offer architecture and interior design services through a corporation, limited liability company, or partnership.[13] The corporation, limited liability company, or partnership shall not be relieved of responsibility for the conduct or acts of its agents, employees, or officers.[14]

With regard to the extent of a licensed architect's or interior designer's personal liability, s. 481.219(11), F.S., also provides that:

> the architect who signs and seals the construction documents and instruments of service shall be liable for the professional services performed, and the interior designer who signs and seals the interior design drawings, plans, or specifications shall be liable for the professional services performed.

Corporations, limited liability companies, and partnerships are not relieved of responsibility for the conduct or acts of their agents, employees, or officers.[15]

Landscape Architects

Landscape architects are regulated by the Board of Landscape Architecture within the Department of Business and Professional Regulation, which enforces and administers the provisions of part II of ch. 481, F.S. Existing law provides the following education and

[11] Section 481.209(1), F.S.
[12] Section 481.209(2), F.S.
[13] Section 481.219, F.S.
[14] Section 481.219(11), F.S.
[15] *Id.*

experience requirements for a person to qualify to take the examination for licensure as a landscape architect:

- Completing a board-approved professional degree program in landscape architecture; or
- Having six years of actual practical experience in landscape architectural work of a grade and character satisfactory to the board.[16]

Practicing landscape architecture through a corporation or partnership does not relieve any landscape architect from personal liability for his or her professional acts.[17]

Landscape Architects Liability

Licensees may offer landscape architect services through a corporation or partnership.[18] Section 481.319(6), F.S., provides that:

> the fact that registered landscape architects practice landscape architecture through a corporation or partnership as provided in this section shall not relieve any landscape architect from personal liability for his or her professional acts.

Design Professional Contracts

Florida law provides that a public agency:

> may require in a professional services contract with the design professional that the design professional indemnify and hold harmless the agency, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the design professional and other persons employed or utilized by the design professional in the performance of the contract.[19]

Except as provided in s. 725.08(1), F.S., a professional services contract entered into with a public agency may not require that the design professional defend, indemnify, or hold harmless the agency, its employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding, and any such contract provision is void against the public policy of the state.[20] Section 725.08, F.S., does not apply to contracts or agreements entered into before May 25, 2000.[21]

Section 725.08(3), F.S., defines a "professional services contract" to mean:

[16] Section 481.309(1), F.S.
[17] Section 481.319(6), F.S.
[18] Section 481.319, F.S.
[19] Section 725.08(1), F.S.
[20] Section 725.08(2), F.S.
[21] Section 725.08(5), provides that this section does not affect contracts or agreements entered into before the effective date of this section. Section 725.08, F.S., was created in ch. 2000-162, Laws of Fla., which was approved by the Governor on May 25, 2000, and had an effective date of upon becoming law.

> a written or oral agreement relating to the planning, design, construction, administration, study, evaluation, consulting, or other professional and technical support services furnished in connection with any actual or proposed construction, improvement, alteration, repair, maintenance, operation, management, relocation, demolition, excavation, or other facility, land, air, water, or utility development or improvement.

Section 725.08(4), F.S., defines a "design professional" to mean:

> an individual or entity licensed by the state who holds a current certificate of registration under chapter 481 to practice architecture or landscape architecture, under chapter 472 to practice land surveying and mapping, or under chapter 471 to practice engineering, and who enters into a professional services contract.

Economic Loss Rule

The economic loss rule is "a judicially created doctrine that sets forth the circumstances under which a tort action is prohibited if the only damages suffered are economic losses."[22] Under the economic loss rule, economic damages may not be recovered in a negligence action if the damages are not accompanied by physical property damage or bodily injury.[23] This rule "bars a plaintiff from bringing tort claims to recover pure economic damages arising from a breach of contract cause of action absent personal injury or property damages."[24] As a result, where the relationship between the plaintiff and the defendant is derived in contract, and the plaintiff cannot prove a tort independent of some contractual breach, the economic loss rule bars recovery on any noncontract claims.[25]

The Florida Supreme Court defined economic losses as "damages for inadequate value, costs of repair and replacement of the defective product, or consequent loss of profits, without any claim of personal injury or damage to other property."[26] An economic loss includes "disappointed economic expectations," i.e., the loss of the benefit of the bargain. Courts have found that such losses are more appropriately protected by contract law, rather than by tort law.[27] To recover damages under tort law, "there must be a showing of harm above and beyond disappointed expectations. A buyer's desire to enjoy the benefit of his bargain is not an interest that tort law traditionally protects."[28]

In Florida, the economic loss rule applies to claims in two different cases:

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[22] *Indemnity Ins. Co. of N. Am. v. Am. Aviation, Inc.*, 891 So. 2d 532, 536 (Fla. 2004).
[23] 17 FLA. JUR. 2D *Damages* s. 36 (2010).
[24] *Id*.
[25] *Id.*
[26] *Casa Clara Condominium Ass'n, Inc. v. Charley Toppino and Sons, Inc.*, 620 So. 2d 1244, 1246 (Fla. 1993) (quoting *Economic Loss in Products Liability Jurisprudence,* 66 COLUM. L. REV. 917, 918 (1966)).
[27] *Id.*
[28] *Id.* (quoting *Redarowicz v. Ohlendorf*, 441 N.E.2d 324, 327 (Ill. 1982)).

- When the parties are in contractual privity and one party seeks to recover damages in tort for matters actually arising in contract; and
- When there is a defect in a product that causes damage to the product but causes no personal injury or damage to other property.[29]

In *Casa Clara*, the Florida Supreme Court applied the economic loss rule to bar a negligence claim[30] by homeowners against a concrete supplier with whom the homeowners were not in privity. The court held that "[i]f a house causes economic disappointment by not meeting a purchaser's expectations, the resulting failure to receive the benefit of the bargain is a core concern of contract, not tort, law."[31] The court noted that there were other protections for homeowners, such as statutory warranties, the general warranty of habitability, the duty of sellers to disclose defects, the ability of purchasers to inspect houses for defects, and the homebuyers' power to bargain over price.[32]

The distinction between contract law and tort law is relevant to the remedies that can be attained. Tort law compensates people for personal injury or property damage caused by tortuous conduct, without regard to a contract. Contract law enforces expectancy interests created by an agreement between parties. Tort remedies may award plaintiffs greater damages and tort plaintiffs may be able to avoid the conditions of the contract,[33] while "contract principles [are] more appropriate than tort principles for resolving economic loss without an accompanying physical injury or property damage."[34]

Recognizing the different interests that tort and contract law are intended to protect, the Florida Supreme Court also stated in *Casa Clara* that:

> [t]his is the basic difference between contract law, which protects expectations, and tort law, which is determined by the duty owed to an injured party. For recovery in tort "there must be a showing of harm above and beyond disappointed expectations. A buyer's desire to enjoy the benefit of his bargain is not an interest that tort law traditionally protects."[35]

Economic Loss Rule and Design Professionals

In *Moransais v. Heathman*,[36] the Florida Supreme Court considered the application of the economic loss rule to a professional malpractice claim brought by a homeowner (plaintiff) against licensed engineers (defendants) who made a pre-purchase inspection and allegedly failed to detect and disclose defects in the condition of the house. The plaintiff had contracted with a

[29] *Auto-Owners Ins. Co. v. Ace Electrical Service, Inc.*, 648 F. Supp. 2d 1371, 1380-81 (M.D. Fla. 2009).
[30] *Casa Clara* at 1246. In this case, the condominium association's claims against the defendant included breach of common law implied warranty, products liability, negligence, and violation of the building code.
[31] *Id.* at 1247 (citing *East River Steamship Corp. v. Transamerica Delaval, Inc.* 476 U.S. 858, 870 (1986)).
[32] *Id.* at 1247.
[33] *Id.* at 1245 (citing William L. Prosser, *The Borderland of Tort and Contract in Selected Topics on the Law of Torts*, 380, 425 (1953)).
[34] *Florida Power & Light Co. v. Westinghouse Elec. Corp.*, 510 So. 2d 899, 902 (Fla. 1987).
[35] *Casa Clara*, 620 So. 2d at 1246.
[36] *Moransais v. Heathman*, 744 So. 2d 973 (Fla. 1999).

professional engineering corporation to perform the home inspection services, and the contract did not name the defendants who actually conducted the inspection as parties to the contract.

The court considered the following two questions:

- Where a purchaser of a home contracts with an engineering corporation, does the purchaser have a cause of action for professional malpractice against an employee of the engineering corporation who performed the engineering services?
- Does the economic loss rule bar a claim for professional malpractice against the individual engineer who performed the inspection of the residence where no personal injury or property damage resulted?

The court held that home purchasers have a cause of action for professional malpractice against an employee of the engineering corporation who conducts a home inspection but with whom the home purchaser is not in privity of contract. The court concluded that professional malpractice and negligence claims are not barred by the economic loss rule. The court's holding was based on two principal reasons:

- Florida's common law and statutory scheme recognizes tort claims against professionals for negligence based on the professional's violation of a duty of care to the injured person.
- The economic loss rule is not intended to apply to professionals who negligently perform their duties.

The court stated that Florida's common law provides that persons who are:

> injured by another's negligence may maintain an action against the other person based on that other person's violation of a duty of due care to the injured person. Further, where the negligent party is a professional, the law imposes a duty to perform the requested services in accordance with the standard of care used by similar professionals in the community under similar circumstances.[37]

In addition to Florida's common law, the court relied on the two-year statute of limitations for professional malpractice in s. 95.11(4)(a), F.S. It also relied on s. 621.07, F.S., which provides that professional employees of a corporation may be held individually liable for any negligence committed while rendering professional services, to support its conclusion that the fact that both of the engineer defendants were employees of a corporation did not shield them from liability.

The court found that engineers were professionals within the meaning of s. 95.11, F.S., noting that a profession is "any vocation requiring at a minimum a four-year college degree before licensing is possible in Florida."[38] The court also noted that ss. 471.023 and 621.07, F.S., indicate an intent to hold licensed engineers as professionals in a corporation or partnership personally liable for their negligent acts.

[37] *Id.* at 975-76.
[38] *Id.* at 976 (citing *Garden v. Frier*, 602 So. 2d 1273, 1275 (Fla. 1992)).

Regarding the economic loss rule, the court noted that the rule has not eliminated causes of action premised upon torts that are independent of the contract.[39] It also held that the rule was not intended to bar well-established common law causes of action, such as those for neglect in providing professional services.[40] The court stated that the economic loss rule was primarily intended to limit product liability claims, and that it should generally be limited to that context "or situations where the policy considerations are substantially identical to those underlying the product liability-type analysis."[41] Noting that actions against professionals often involve only economic loss without any personal or property damage, the court stated that extending the economic loss rule to tort cases against professionals "would effectively extinguish such causes of action."[42]

In *Witt v. La Gorce Country Club, Inc.*,[43] the Third District Court of Appeal relied on the holding in *Moransais* to reject the application of the economic loss rule to a professional malpractice claim against a licensed professional geologist. In *Witt*, the plaintiff, La Gorce Country Club, Inc., entered into a design-build contract for a reverse osmosis system with ITT Industries, Inc. (ITT), and Gerald M. Witt and Associates, Inc. (GMWA), which was the company of the defendant professional geologist Gerald M. Witt (Witt). The contract provided a limitation of liability, and Witt, in his individual capacity, was not a party to the contract. The reverse osmosis system ultimately failed after numerous technical problems during the design and building of the system, and the plaintiff filed suit.[44]

Regarding the malpractice claim against Witt, the Third District Court of Appeal refused to apply the economic loss rule to bar the claim. The court relied on the holding in *Moransais*, and also noted that, as a professional geologist, Witt was specifically subject to personal liability for negligence, misconduct, or wrongful acts under s. 492.111, F.S.
In refusing to apply the economic loss rule to limit Witt's liability, the court noted that:

> claims of professional negligence operate outside of the contract. Because a professional negligence claim exists and operates outside of a professional services contract, it would be inapposite to limit such a remedy to the confines of the very document outside of which it was intended to operate.[45]

[39] *Id.* at 981 (citing *HTP, Ltd. v. Lineas Aereas Costarricenses, S.A.*, 685 So. 2d 1238 (Fla. 1996)).
[40] *Id.* at 983.
[41] *Id.*
[42] *Id.*
[43] *Witt v. La Gorce Country Club, Inc.*, 2009 WL 1606437 (Fla. 3d DCA 2009).
[44] The claims against Gerald M. Witt, the defendant professional geologist, and his codefendant corporations included: (1) fraud in the inducement against codefendant ITT Industries, Inc. (ITT); (2) aiding and abetting fraud in the inducement by Witt and his company Gerald M. Witt and Associates, Inc. (GMWA); (3) violation of the Florida Deceptive and Unfair Trade Practices Act in ss. 501.201-501.213, F.S., by ITT and GMWA; (4) professional malpractice by Witt and GMWA; and (5) breach of the contract by GMWA. *Witt* 2009 WL at 2.
[45] *Witt* at 4.

III. Effect of Proposed Changes:

The bill limits the tort liability of design professionals. The design professionals affected by the bill include licensed engineers, surveyors and mappers, architects, interior designers, and landscape architects.[46]

The bill limits the potential tort claims for recovery of economic damages resulting from a construction defect[47] that may be filed by a claimant[48] contracting for the professional services of a design professional. It eliminates causes of action in tort for any damages resulting from the performance of the professional services that are the subject of the contract. In effect, a claimant contracting directly with the design professional, or a claimant contracting with a general contractor or other entity for professional services to be performed by the design professional, is subject to this limitation of liability. The tort liability limitation in the bill does not apply to persons who are not a party to the contract for professional services.

The tort liability limitation for design professionals does not apply if:

- The contract requires professional liability insurance and the liability of the design professional is limited in the contract to an amount less than the liability insurance coverage required by the contract;
- The claim relates to economic damages resulting from personal injury;
- The claim relates to damage to property that is not the subject of the contract;
- The contract or agreement was entered into before July 1, 2011; or
- The professional services were performed before July 1, 2011.

The bill does not require insurance coverage as a condition for the limited liability. Any professional liability insurance coverage would be negotiated by the parties to the contract.

The effect of the bill's tort liability limitation is to apply the economic loss rule to bar claims by parties to a contract against the specified design professionals who provide the professional design services that are the subject of a contract. Therefore, a party claiming a purely economic loss based on a design service contract may not bring a tort action based on malpractice or

[46] "Design professional" is defined in s. 558.002(7), F.S.

[47] A "construction defect" is defined as a deficiency in, or a deficiency arising out of, the design, specifications, surveying, planning, supervision, observation of construction, or construction, repair, alteration, or remodeling of real property resulting from:

- Defective material, products, or components used in the construction or remodeling;
- A violation of the applicable codes in effect at the time of construction or remodeling which gives rise to the cause of action;
- A failure of the design of real property to meet the applicable professional standards of care at the time of governmental approval; or
- A failure to construct or remodel real property in accordance with accepted trade standards for good and workmanlike construction at the time of construction.

[48] A "claimant" is defined as "a property owner, including a subsequent purchaser or association, who asserts a claim for damages against a contractor, subcontractor, supplier, or design professional concerning a construction defect or a subsequent owner who asserts a claim for indemnification for such damages. The term does not include a contractor, subcontractor, supplier, or design professional."

negligence against the contracted design professional. The injured party would be limited to a lawsuit based on contract claims.

The tort liability limitation also applies whether or not the design professional rendered his services through a business organization, such as a corporation, partnership, or limited liability company. Under current law, engineers, surveyors and mappers, architects, interior designers, and landscape architects may provide their services through a business organization, such as a partnership or corporation, and the business organization must have a certificate of authorization issued by the respective board.[49]

The bill amends the current liability provisions in ss. 471.023(3), F.S. (engineers), 472.021(3), F.S. (surveyors and mappers), 481.219(11), F.S. (architects and interior designers), and 481.319(6), F.S. (landscape architects) to specifically reference the limitation of liability provision created in ch. 558, F.S., under the bill.

It is not clear what effect the liability limitation in the bill would have on the professional liability provisions amended by the bill and the liability provision in s. 621.07, F.S., and how these liability provisions could be applied against these professionals. However, as noted by the Supreme Court in *Moransais*, the extension of the economic loss rule against professionals for actions involving purely economic damages without personal injury or property damage, "would effectively extinguish such causes of action."[50]

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 21, Art. I, of the Florida Constitution provides the constitutional right of access to court. It provides:

> The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

[49] *See* s. 471.021, F.S., relating to engineers, s. 472.023, F.S., relating to surveyors and mappers, s. 481.219, F.S., relating to architects and interior designers, and s. 481.319, F.S., relating to landscape architects.
[50] *Moransais* at 983.

In *Johnson v. R. H. Donnelly Company*, the Florida Supreme Court held that the constitutional right of "access to courts guarantees the continuation of common law causes of action and those causes of action may be altered only if there is a reasonable substitution which protects the persons protected by the common law remedy."[51] In *Kluger v. White*, the Florida Supreme Court also held that the Legislature cannot abolish a common law cause of action "unless the Legislature can show an overpowering public necessity for the abolishment of such right, and no alternative method of meeting such public necessity can be shown."[52]

In *Moransais v. Heathman*,[53] the Florida Supreme Court stated that Florida's common law and statutory scheme recognizes tort claims against professionals for negligence based on the professional's violation of a duty of care to injured persons. By limiting such claims against licensed engineers, surveyors and mappers, architects, and landscape architects, the bill may implicate concerns relating to the constitutional right of access to courts to the extent that the bill limits causes of actions for professional negligence and professional malpractice.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill limits the tort claims for economic losses that are based upon professional negligence and professional malpractice against licensed engineers, surveyors and mappers, architects, and landscape architects (design professionals). The design professionals affected by the bill may experience lower costs for professional liability insurance and may charge lower prices to their customers for their professional services.

Parties to a contract who experience an economic loss that may be attributable to the professional negligence or professional malpractice of a design professional may be limited to the limited remedies available under contract law or may be barred completely from any recovery of damages contingent upon the terms of the contract.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

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[51] *Johnson v. R. H. Donnelly Co.*, 402 So. 2d 518, 520 (Fla. 1981).
[52] *Kluger v. White*, 281 So. 2d 1, 4 (Fla. 1973).
[53] *Moransais v. Heathman*, 744 So. 2d 973, 975, 976 (Fla. 1999).

VII. Related Issues:

The provisions of this bill are substantially similar to the provisions of CS/CS/SB 288 by the Judiciary Committee, the Regulated Industries Committee, and Senator Negron, which passed in the 2010 Regular Session and was vetoed by Governor Charlie Crist.

VIII. Additional Information:

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

None.

B. Amendments:

None.

797406

LEGISLATIVE ACTION

Senate . House

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The Committee on Regulated Industries (Wise) recommended the following:

Senate Amendment

Delete lines 29 - 30
and insert:
against the design professional who performs professional services within the scope of the claimant's contract for the recovery of economic damages resulting from a construction defect.

939872

LEGISLATIVE ACTION

Senate . House

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The Committee on Regulated Industries (Wise) recommended the following:

Senate Substitute for Amendment (797406)

Delete lines 29 - 30

and insert:

against any design professional who performs professional services within the scope of the claimant's contract for the recovery of economic damages resulting from a construction defect.

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:	SB 544
INTRODUCER:	Senator Joyner
SUBJECT:	Barbering
DATE:	March 2, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Young	Imhof	RI	**Pre-meeting**
2.			HE	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill provides the structure for allowing barbering internships. The internships are to be provided through a barbering school or program and the school or program is responsible for placing the intern in a licensed barbershop under the supervision of a licensed barber.

The bill provides for a $30.00 fee to be paid by internship sponsors.

The bill has an effective date of July 1, 2011.

This bill substantially amends the following sections of the Florida Statutes: 476.034, 476.145, 476.188, 476.192, and 476.194. This bill creates s. 476.145, Florida Statutes.

II. Present Situation:

Barbering is governed by ch. 476, F.S. This chapter places the profession of barbering under the regulation of the Barbers' Board (board) within the Department of Business and Professional Regulation (department). There are currently 9,464 active barbering licenses within the state of Florida.[1]

Barbering is defined as:

> any of the following practices when done for remuneration and for the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting,

[1] *See* department analysis for SB 544, dated January 28, 2011, on file with the Committee on Regulated Industries.

> trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.[2]

The act of engaging in barbering without a license is prohibited under s. 476.194, F.S. If guilty of violating this prohibition, the person has committed a misdemeanor of the second degree as is punishable as provided in ss. 775.082 and 775.083, F.S.[3] Possible punishments under these sections include:

- Imprisonment for a definite term not longer than 60 days;
- A fine not to exceed $500.00; or
- Both.

The requirements for a barbering license are governed by s. 476.114, F.S. Currently, a person must apply to the board for a license and in order to be granted that license, must meet the following requirements:

- Be at least 16 years of age;
- Pay the required application fee; and
- Hold a valid barbering license in another state for at least one year; or
- Have received a minimum of 1,200 hours of training as established by the board. This training must have taken place at one of the following:
    - A school of barbering licensed pursuant to ch. 1005, F.S;
    - A barbering program within the public school system; or
    - A government operated barbering program in this state.

The board is required to establish rules governing the procedures for a certification by the schools that the person is eligible and qualified to take the exam after the completion of 1,000 actual hours of schooling.[4] Rule 61G3-16.001, F.A.C. lays out the rules implemented by the board concerning licensing. The rule provides that the examination may be taken after 1,000 hours, however if the persons fails the examination, then they must finish the requirements for licensure before they may take the exam again. The rule further provides for the types of courses that must be included in the persons study and the hours of instruction for each type.

Private schools of barbering are required to have a license issued by the Commission for Independent Education, however the Department of Education may authorize programs in public schools and the government may operate their own programs without being subject to the licensure requirement.[5]

Barbers are licensed for a two-year period and are subject to the fees:[6]

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[2] Section 476.034(2), F.S.
[3] Section 476.194(2), F.S.
[4] Section 476.114, F.S.
[5] Section 476.178, F.S.
[6] *See* s. 476.192, F.S., and s. 455.2281, F.S., relating to the $5 unlicensed activity fee.

- Barber = $105
- Restricted Barber = $105
- Barbershop = $155
- Barber Assistant = $25
- The fees above include a $5 unlicensed activity fee

III. Effect of Proposed Changes:

This bill amends s. 476.034, F.S., to define the terms "barbering intern" and "internship sponsor." A barbering intern is defined as "a student enrolled in a 1,200-hour barbering program who participates in an optional work-experience internship under the direct supervision of a licensed barber in a licensed barbershop." The internship sponsor is defined as "a licensed barber registered with the board for the purpose of supervising a barbering intern and ensuring compliance by the intern with the laws and rules of this state and the internship requirements established by the board and administered through a school or a barbering program."

The bill creates s. 476.145, F.S. This section provides for barbering internships to be offered through barbering schools or programs (school). The bill establishes that the school is to determine who is able to participate in the internship program along with where they will be placed. The bill specifies that an internship placement is to be less than 12 months in duration.

The bill requires that the internship sponsor must be approved by a school of barbering or barbering program before the sponsor may have an intern. The sponsor must have an active license and must actively supervise the intern in the practice of barbering. The sponsor must ensure that the intern complies with all laws and rules that govern barbering and is complying with the objectives and guidelines of the school.

The bill requires that the intern practice barbering only within the field of barbering that they are engaged in studying. All activities of barbering performed by the intern must be expressly approved by the sponsor and contracted for by the sponsor.

The bill requires that the public be informed that the intern is not a licensed barber. The sponsor must also ensure that there is a notice posted in a conspicuous manner within the barbershop that notifies persons that there is a student intern providing services in the shop, as provided by rule of the board.

The bill requires that a barbering intern must possess documentation from the barbering school or program indicating their authorization to engage in the practice of barbering.

The board is required to adopt, by rule, educational requirements for the internship. These requirements are to contain topics such as the number of classroom hours and required coursework. The board must also determine the number of interns that may be assigned to each sponsor, the minimum and maximum number of internship hours, and the educational objectives and guidelines for the program.

The bill provides that the board may terminate the internship of any intern for a violation of the laws or rules governing barbering or the rules governing internships. The board must notify the

internship sponsor, the school, and the intern. The school must determine the educational status of the intern after the termination of the internship.

The bill amends s. 476.188(1), F.S., to allow barbering services to be provided by a licensed barber or intern. The bill also amends s. 476.194, F.S., to include barbering interns in the criminal prohibition against practicing barbering without a license.

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:

There is a fee associated with the barbering internship sponsor application. The bill requires a fee of not more than $30.00 be paid by an internship sponsor applicant.

B. Private Sector Impact:

The department estimates that the bill would allow internship sponsors to employ barbering interns and increase the revenue in their barbershops while giving instruction to barbering interns. The department indicated that the bill will encourage more individuals to enter the barbering workforce. According to the board's staff, the expected increase in the number of barbers would be approximately 5 percent of the existing number of licensees.

The 5 percent increase over the current active number of barbers would result in 473 interns and sponsors in FY 2011-12. The department anticipates that these interns would apply for and be licensed in FY 2012-13.

The department estimates the population of intern-trained applicants will grow by 1.7 percent per year beginning in FY 2012-13.

C. Government Sector Impact:

According to the department, there will be an impact related to processing internship sponsor registrations and increased numbers of licensees who apply for licensure based

upon their ability to work as interns. The increased number of applicants and licenses will generate additional revenue.

The department believes that the additional work can be absorbed by the current staff, however they do believe that there will be additional costs connected with the addition of board meetings, to conduct rule development workshops, to process an increased number of disciplinary cases, and to review and consider internship sponsor applications.

The department estimates that revenue from the fee for FY 2011-2012 would be $14,190 and the additional cost to the department would be $7,940. That gives a net revenue of $5,115 for FY 2011-2012 and a total net revenue estimate of $239,815 through FY 2014.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

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:	SB 746
INTRODUCER:	Senator Altman
SUBJECT:	Open House Parties
DATE:	February 22, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Young	Imhof	RI	**Pre-meeting**
2.			CJ	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill amends s. 856.015, F.S., by enhancing the penalty against a person violating, for a second or subsequent time, the prohibition against knowingly hosting an open house party where alcohol or drugs are possessed or consumed by a minor without having taken reasonable steps to prevent such possession or consumption.

The bill provides that the second or subsequent violation constitutes a misdemeanor of the first degree.

The bill further amends s. 856.015, F.S., by providing that any violation, first time violation or subsequent that results in serious bodily injury or death, as constitutes a misdemeanor of the first degree.

The bill provides a July 1, 2011 effective date.

This bill substantially amends section 856.015, of the Florida Statutes.

II. Present Situation:

Section 856.15, F.S., provides that it is a second degree misdemeanor for a person, that has control of a residence, to allow an open house party to take place at the residence if that person has knowledge that alcohol or drugs are being possessed or consumed by a minor and the person fails to take reasonable steps to prevent the possession or consumption.

A second degree misdemeanor is punishable as provided under s. 775.082, F.S., or s. 775.083, F.S. Section 775.082, F.S., provides that a second degree misdemeanor is punishable by imprisonment for a finite term not longer than 60 days.[1] Section 775.083, F.S., provides that a second degree misdemeanor could also be punishable by a fine of not more than $500.00.[2]

Section 856.015(1), F.S. defines the following terms:

- "Open house party" means a social gathering at a residence;
- "Control" means the authority or ability to regulate, direct, or dominate;
- "Residence" means a home, apartment, condominium or other dwelling unit;
- "Minor" means a person not legally permitted by reason of age to possess alcoholic beverages; and
- "Person" means anyone 18 years of age or older.

It is unlawful for any person younger than 21 years of age to possess alcoholic beverages in the state of Florida.[3] This means that the penalties for holding an open house party where persons under the age of 21 possess or consume an alcoholic beverage applies to any person 18 years of age or older.

Section 856.013, F.S., provides an exemption for the use of alcoholic beverages at legally protected religious ceremonies or observances.[4]

The prohibition requires the person in control of the residence have actual knowledge that a minor is in possession of, or consuming, an alcoholic beverage or drugs. Actual knowledge is defined as "direct and clear knowledge."[5] As a result, it is not enough that the person in control of the residence should have known of the possession or consumption, but instead must have "direct and clear" knowledge of the possession or consumption by a minor.

Further, the statute provides that the person in control of the residence must take reasonable steps to prevent the possession or consumption by a minor of an alcoholic beverage or drugs. This includes reasonable steps once the person has actual knowledge that a minor possesses or is consuming an alcoholic beverage or drugs. The Florida Supreme Court discussed this provision and held that the "adult may avoid liability by terminating the party or taking some other reasonable action to prevent the consumption or possession after learning thereof."[6]

[1] *See* s. 775.082(4)(b), F.S.
[2] *See* s. 775.083(1)(e), F.S.
[3] Section 562.111, F.S.
[4] *See* s. 856.015(3), F.S.
[5] Black's Law Dictionary (9th ed. 2009), knowledge (actual knowledge).
[6] *See State v. Manfredonia*, 649 So.2d 1388, 1391 (Fla. 1995).

III. Effect of Proposed Changes:

The bill amends subsection (4) of s. 856.015, F.S., to provide that a person who violates the prohibition for a second or subsequent time by knowingly hosting an open house party at which minors possess or consume an alcoholic beverage or drugs and does not take reasonable steps to stop or prevent the action, is guilty of a misdemeanor of the first degree.

A first degree misdemeanor is punishable by a fixed prison term of not more than one year or a fine that does not exceed $1000.[7]

The bill also creates subsection (5) in s. 856.015, F.S., to provide that a person who violates the statute, and that violation results in serious bodily injury or death is guilty of a misdemeanor of the first degree whether or not it is a first violation or a subsequent violation. The Florida First District Court of Appeal has embraced the Black's Law Dictionary definition of serious bodily injury.[8] That definition says that serious bodily injury is a "serious physical impairment of the human body; esp., bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement or protracted loss or impairment of the function of any body part or organ."[9]

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[7] *See* s. 775.082(4)(a) and s. 775.083(1)(d), F.S.
[8] *Smith v. State*, 793 So. 2d 1118 (1st DCA 2001).
[9] Black's Law Dictionary (9th ed. 2009), injury (serious bodily injury).

B. Private Sector Impact:

C. Government Sector Impact:

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

LEGISLATIVE ACTION

Senate . House

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The Committee on Regulated Industries (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Delete line 34
and insert:
death to the minor, the violation is a misdemeanor of the first degree,

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete line 9
and insert:
bodily injury or death to the minor; providing

431872

criminal penalties;

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:	SB 650
INTRODUCER:	Senator Jones
SUBJECT:	Mobile Home Park Lot Tenancies
DATE:	March 7, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Pre-meeting**
2.			CA	
3.			RC	
4.				
5.				
6.				

I. Summary:

The bill authorizes local governments to enforce the statutory obligations of park owners and mobile home owners through local government ordinances. It would also prohibit local governments from assessing a lien, penalty, or fine, or initiating an administrative or civil proceeding against the mobile home owner or park owner who does not have a duty or is not responsibility relating to the alleged violation.

The bill provides mobile home park homeowners' associations a right of first refusal to purchase a mobile home park in situations in which a mobile home park is subject to a change in land use. The bill also establishes notice procedures.

The bill would take effect upon becoming law.

This bill substantially amends section 723.061, Florida Statutes. The bill creates section 723.024, Florida Statutes.

II. Present Situation:

Mobile Home Act

Chapter 723, F.S., is known as the "Florida Mobile Home Act" (act) and provides for the regulation of mobile homes by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (department).

The act was created to address the unique relationship between a mobile home owner and a mobile home park owner. The act provides in part that:

> Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.[1]

The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.[2]

Mobile Home Park Owner's Obligations

Section 723.022, F.S., sets for the park owners obligations. Park owners must:

> (1) Comply with the requirements of applicable building, housing, and health codes.
> (2) Maintain buildings and improvements in common areas in a good state of repair and maintenance and maintain the common areas in a good state of appearance, safety, and cleanliness.
> (3) Provide access to the common areas, including buildings and improvements thereto, at all reasonable times for the benefit of the park residents and their guests.
> (4) Maintain utility connections and systems for which the park owner is responsible in proper operating condition.
> (5) Comply with properly promulgated park rules and regulations and require other persons on the premises with his or her consent to comply therewith and conduct themselves in a manner that does not unreasonably disturb the park residents or constitute a breach of the peace.

Mobile Home Owner's Obligations

Section 723.023, F.S., sets forth the mobile home owner's general obligations. A mobile home owner must:

> (1) Comply with all obligations imposed on mobile home owners by applicable provisions of building, housing, and health codes.

[1] Section 723.004(1), F.S.; *see also Mobile Home Relocation*, Interim Report No. 2007-106, Florida Senate Committee on Community Affairs, October 2006.
[2] Section 723.002(1), F.S.

(2) Keep the mobile home lot which he or she occupies clean and sanitary.
(3) Comply with properly promulgated park rules and regulations and require other persons on the premises with his or her consent to comply therewith and to conduct themselves in a manner that does not unreasonably disturb other residents of the park or constitute a breach of the peace.

Eviction of A Mobile Home Owner by a Park Owner

Section 723.061(1), F.S., specifies the following grounds that a mobile home park owner may rely on to evict a mobile home owner, a mobile home tenant, a mobile home occupant, or a mobile home:

- Nonpayment of lot rental amount;
- Conviction of a violation of a federal or state law or local ordinance, which violation may be deemed detrimental to the health, safety, or welfare of other residents of the mobile home park;
- Violation of a park rule or regulation, the rental agreement, or ch. 723, F.S.;
- Change in use of the land comprising the mobile home park; or
- Failure of the purchaser, prospective tenant, or occupant of a mobile home situated in the mobile home park to be qualified as, and to obtain approval to become, a tenant or occupant of the home, if such approval is required by a properly promulgated rule.

In order to evict mobile home owners due to a change in the use of the land where the mobile home park is located, the park owner is required to give all affected tenants at least six-month's written notice of the projected change in land use to provide tenants with enough time to secure other accommodations.[3] The notice of a change in land use must be in writing, posted on the premises, and sent to the mobile home owner, tenant, or occupant by certified or registered mail.[4] The mobile home park owner is not required to disclose the proposed land use designation for the park in the eviction notice.[5]

In addition to the notice required for a proposed change in land use, a park owner must provide written notice to the mobile home owner or the directors of the homeowners' association, if one has been established, of any application for a change in zoning of the mobile home park within five days after filing for such zoning change with the zoning authority.[6]

Sale of Mobile Home Park: Mobile Home Owner's Rights

A mobile home park owner who offers[7] his or her park for sale to the general public must notify[8] the officers of the homeowners' association of the offer, asking price, and terms and conditions

[3] Section 723.061(1)(d), F.S.
[4] Section 723.061(5), F.S.
[5] *See Harris v. Martin Regency, Ltd.*, 576 So. 2d 1294, 1296 (Fla. 1991) (recognizing that "the legislature did not intend to require the park owner to specify what the 'change in use' would be").
[6] Section 723.081, F.S.
[7] Section 723.071(3)(b), F.S., defines the term "offer" to mean any solicitation by the park owner to the general public.
[8] Section 723.071(3)(a), F.S., defines the term "notify" to mean the placing of a notice in U.S. mail addressed to the officers of the homeowners' association. The notice is deemed to have been given upon the mailing.

of sale.[9] The mobile home owner's right to purchase the park must be exercised by and through the mobile homeowners' association created pursuant to ss. 723.075-723.079, F.S.

The mobile homeowners' association must be given 45 days from the date the notice is mailed, to execute a contract with the park owner that meets the price and terms and conditions, as set forth in the notice. If the homeowners' association and the park owner fail to execute a contract within those 45 days, the park owner has no further obligation, unless he or she subsequently agrees to accept a lower price.[10] However, if the park owner agrees to sell the park at a lower price than specified in the notice to the homeowners' association, then the homeowners' association will have an additional 10 days to meet the price and terms and conditions.[11]

The mobile home park owner is also required to notify the homeowners' association of any unsolicited bona fide offer to purchase the park which the owner intends to consider or make a counteroffer to, and allow the homeowners' association to purchase the park under the price and terms and conditions of the bona fide offer to purchase.[12] Although the park owner must consider subsequent offers by the homeowners' association, he or she is free to execute a contract to sell the park to a party other than the association at any time if the offer is unsolicited.[13]

Florida Mobile Home Relocation Corporation

In 2001, the Legislature created the Mobile Home Relocation Program in response to concerns associated with the closure of mobile home parks.[14] The Florida Mobile Home Relocation Corporation (corporation) is a public corporation that governs the collection and payment of relocation expenses for mobile home owners displaced by a change in land use for a mobile home park.[15]

Moving Expenses Available to Mobile Home Owners

Under current law, a displaced mobile home owner is entitled to certain relocation expenses paid by the corporation.[16] The amount of payment includes the lesser of the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or $3,000 for a single-section mobile home and $6,000 for a multi-section mobile home. Moving expenses incorporate the cost of taking down, moving, and setting up the mobile home in a new location.[17]

In order to obtain payment for moving expenses, the mobile home owner must submit an application for payment to the corporation along with a copy of the notice of a change in use and a contract with a moving company for relocating the mobile home.[18] If the corporation does not

[9] Section 723.071(1)(a), F.S.
[10] Section 723.071(1)(b), F.S.
[11] Section 723.071(1)(c), F.S.
[12] Section 723.071(2), F.S.
[13] *Id.*
[14] Chapter 2001-227, L.O.F.
[15] Section 723.0611, F.S.
[16] *Id.*
[17] Section 723.0612(1), F.S.
[18] Section 723.0612(3), F.S.

approve payment within 45 days of receipt, it is deemed approved. Upon approval, the corporation issues a voucher in the amount of the contract price to relocate the mobile home, which the moving contractor may redeem upon completion of the move and approval of the relocation by the mobile home owner.[19]

Once a mobile home owner's application for funding has been approved by the corporation, he or she is barred from filing a claim or cause of action under ch. 723, F.S., directly relating to or arising from the proposed change in land use of the mobile home park against the corporation, the park owner, or the park owner's successors in interest.[20] Likewise, the corporation may not approve an application for funding if the applicant has either:

- Filed a claim or cause of action;
- Is actively pursuing such claim or cause of action; or
- Has a judgment against the corporation, park owner, or the park owner's successors in interest – unless the claim or cause of action is dismissed with prejudice.[21]

In lieu of collecting moving expenses from the corporation, a mobile home owner can elect to abandon the home and collect payment from the corporation in the amount of $1,375 for a single section mobile home or $2,750 for a multi-section mobile home. If the mobile home owner chooses to abandon the mobile home, he or she must deliver to the park owner an endorsed title with a valid release of all liens on the title to the mobile home.[22]

Payments to the Florida Mobile Home Relocation Corporation[23]

A mobile home park owner is required to contribute $2,750 per single-section mobile home and $3,750 per multi-section mobile home to the corporation for each application that is submitted for moving expenses due to a change in land use.[24] These payments must be made within 30 days after receipt of the invoice from the corporation, and they are deposited into the Florida Mobile Home Relocation Trust Fund under s. 723.06115, F.S.[25]

The mobile home park owner is not required to make payments, nor is the mobile home owner entitled to compensation, if:

- The mobile home owner is moved to another location in the park or to another mobile home park at the park owner's expense;
- The mobile home owner notified the park owner, prior to the notice of a change in land use, that he or she was vacating the premises;
- The mobile home owner abandoned the mobile home, as stated in s. 723.0612(7), F.S.; or

[19] Section 723.0612(3)-(4), F.S.
[20] Section 723.0612(9), F.S.
[21] *Id.*
[22] Section 723.0612(7),F.S.
[23] Payments made to the corporation are deposited into the Florida Mobile Home Relocation Trust Fund under s. 723.06115, F.S., to be used by the Department of Business and Professional Regulation to carry on the purposes of the corporation.
[24] Section 723.06116(1), F.S.
[25] *Id.*

- The mobile home owner had an eviction action filed against him or her for nonpayment of the lot rental amount under s. 723.061(1)(a), F.S., prior to the date that the notice of a change in land use was mailed.[26]

In addition to the above payments, the Florida Mobile Home Relocation Trust Fund receives revenue from mobile home park owners through a $1 annual surcharge levied on the annual fee the park owners remit to the department for each lot they own within the mobile home park. Mobile home owners also contribute to the trust fund through a $1 annual surcharge on the decal fee remitted to the Department of Highway Safety and Motor Vehicles.[27]

III. Effect of Proposed Changes:

Enforcement

The bill creates s. 723.024, F.S., to authorize local governments to enforce violations of the general obligations in ss. 723.022-723.023, F.S, against the party responsible for the violation. According to the department, this provision would benefit mobile home owners because it may give them a means to enforce those provisions. Under current law, the division is not authorized to enforce violations of ss. ss. 723.022-723.023, F.S.[28]

The bill also provides that a lien, penalty, fine, or other administrative or civil proceeding may not be brought against a mobile home owner or park owner for any duty or responsibility of the park owner or against a mobile home park owner for any duty or responsibility of a mobile home owner.

Eviction for Change in Land Use

The bill amends s. 723.061(1)(d), F.S., relating to eviction due to change in land use. Section 723.061(1)(d)1., F.S., requires the park owner to provide written notice to the officers of the homeowners' association of the right to purchase the mobile home park at the price and terms and conditions set forth in the notice.

Section 723.061(1)(d)1.a., F.S., requires that the notice be delivered to the officers of the homeowners' association by United States mail. It gives the homeowners' association the right to execute and deliver a contract for purchase of the park to the park owner within 45 days after the written notice was mailed. The contract must be for the same price and terms and conditions set forth in the notice, which may also require the purchase of other real estate that is contiguous or adjacent to the mobile home park.

Section 723.061(1)(d)1.b., F.S., provides that, if the park owner and the homeowners' association do not execute a contract within 45 days, the park owner is no longer obligated to comply with the process in s. 723.061(1)(d), F.S., and may proceed with the eviction. However, if the park owner elects to offer or sell the park at a price less than the price specified in the

[26] Section 723.06116(2), F.S.
[27] Section 723.06115(1), F.S.
[28] Section 723.005, F.S.

written notice to the homeowners' association, then the homeowners' association has an additional 10 days to meet the revised price and terms and conditions.

The provision in s. 723.061(1)(d)1.b., F.S., is identical to the provision in s. 723.071(1)(c), F.S. Although these provisions imply that the park owner would be required to provide the homeowners' association with some form of notice that the price has been reduced, there is no actual requirement that the park owner provide notice. Because no notice is required, it is unclear when the 10-day period to meet the revised price begins. If it is the intent of the Legislature that actual written notice of a reduced price be provided to the homeowners' association, the Legislature could include this requirement and specify that the homeowners' association would have 10 days from the receipt of notice of the reduced price to purchase the park.

The bill creates s. 723.061(1)(d)1.c., F.S., to clarify that the park owner has no obligation under ss. 723.061(1)(d) or 723.071, F.S., to provide any further notice to, or to negotiate with, the homeowners' association for the sale of the mobile home park after six months from the date of mailing the initial notice.

The bill amends s. 723.061(1)(d)2., F.S., to clarify that the six-months notice of an eviction due to a projected change in land use must be provided by the park owner to the affected mobile home owners instead of to the affected tenants.

The bill deletes subsection (3) of s. 723.061, F.S. Currently, this subsection provides that the provisions of 723.083, F.S.,[29] do not apply to any park where the provisions of "this subsection" apply. There are no provisions governing parks under the subsection. Prior to its amendment in 2001, this provision was included in a paragraph within subsection (2) of 723.061, F.S.[30] The provisions in subsection (2) were deleted in 2001.[31] Therefore, the language in subsection (3) appears to have been mistakenly preserved after the 2001 amendment. However, courts have interpreted this provision as precluding the application of s. 723.083, F.S., when a mobile home park owner gives notice under s. 723.061, F.S.[32] Therefore, the bill clarifies that the provisions of s. 723.083, F.S., which requires the government to consider the adequacy of parks for relocation, apply when a mobile home park owner gives notice under s. 723.061, F.S.

The bill amends s. 723.061(4), F.S., to exempt the notice provided to officers of the homeowners' association under s. 723.061(1)(d)1., F.S., from the notice requirements provided under s. 723.061(4), F.S. The notice requirements under s. 723.061(4), F.S., require that the notice be posted on the premises, and sent and addressed to the mobile home owner, tenant, or occupant by certified or registered mail, return receipt requested at his or her last known address.

[29] Section 723.083, F.S., provides that no agency of municipal, local, county, or state government may approve any application for rezoning, or take other action, which would result in the removal or relocation of mobile home owners residing in a mobile home park without first determining that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners.
[30] Section 6, ch. 2001-227, L.O.F.
[31] *Id.*
[32] *DeFalco v. City of Hallandale Beach*, 18 So. 3d 1126, 1128 (Fla. DCA 2009).

Effective Date

The bill would take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill provides that the mobile home park owner must offer to sell the park to the home owners if the park owner intends to change to use of the land comprising the mobile home park and the home owners meet the price and terms and conditions of the park owner for the sale of the mobile home park. The bill does not require that a park owner intend to sell the park as a prerequisite to requiring the park owner to offer to sell the park to the homeowners' association. This may implicate situations in which the park owner does not intend to sell the land. For example, a situation in which the park owner plans to personally develop the land for a different use and does not plan to sell the property to another developer. This requirement may implicate prohibitions contained in the Sixth Amendment of the U.S. Constitution if applied to deny an application for a change in land use. The Sixth Amendment prohibits the taking of private property for public use without just compensation. A regulatory taking may occur when government regulation "does not substantially advance a legitimate state interest, but instead singles out mobile home park owners to bear an unfair burden, and therefore constitutes an unconstitutional regulatory taking of their property."[33]

A private taking to benefit a private party without any public purpose is void under the 5th Amendment of the U.S. Constitution.[34] A park owner may raise a takings claim under the Fifth and Fourteenth Amendments to the U.S. Constitution. However, in *Kelo v. City of New London Conn.,* the U.S. Supreme Court found that a city's taking of private residences to allow redevelopment under the city's multiuse plan for sale for private development satisfied the public use test and did not violate the 5th Amendment.[35] The property owner may not prevail if the legislature finds and states a clear public purpose and provides a due process mechanism. For example, in *Hawaii Housing Auth. v. Midkiff*, the U.S. Supreme Court held that a Hawaiian statute that permitted a housing authority to

[33] *Aspen-Tarpon Springs v. Stuart*, 635 So.2d 61 (Fla. 1st DCA 1994).
[34] *Hawaii Housing Auth. v. Midkiff*, 467 U.S. 229, 245 (1984).
[35] *Kelo v. City of New London Conn.*, 545 U.S. 469 (2005).

take private land under eminent domain proceedings and to sell it to the tenant in fee simple did not violate the 5th or 14th amendments of the U.S. Constitution because the public purpose was to end the evil of land oligopoly.[36]

In *Aspen-Tarpon Springs v. Stuart*, the First District Court of Appeals held that s. 723.061(2), F.S., was unconstitutional as a regulatory taking of property without compensation.[37] This provision, since amended,[38] required a mobile home park owner who wished to change the land use of a park to either pay to have the tenants moved to another comparable park within 50 miles or purchase the mobile home from the tenants at a statutorily determined value. In *Aspen-Tarpon Springs*, the court found that neither the "buy" or "relocation" options were economically feasible, and were, as a practical matter, confiscatory because it authorized a permanent physical occupation of the owner's property. This issue has not been addressed by the Florida Supreme Court.

Based on the analysis in *Aspen-Tarpon Springs*, it is not clear whether the requirement that the home park owner offer to sell the park to the home owners if they meet his or her price, terms, and conditions of sale, especially in circumstances in which the park owner does not intend to sell the property to effectuate the change in use of the land, would be economically feasible, and if not economically feasible, whether the requirement would be an unconstitutional taking under the Sixth Amendment of the U.S. Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

See the "Effect of Proposed Changes" section of this bill analysis for a discussion of the rights of mobile home owners and the responsibilities for mobile home park owners created by the bill, which may affect them financially through the purchase and sale of property in a mobile home park, and the enforcement of park owner and mobile home owner obligations through local government ordinances.

C. Government Sector Impact:

The bill would permit local governments to enforce the general obligations of park owners and mobile home owners in ss. 723.022 and 723.023, F.S., respectively, through local government ordinances. It would also prohibit local governments from assessing a lien, penalty, or fine, or initiating an administrative or civil proceeding against the mobile home owner or park owner who does not have a duty or responsibility relating to the alleged violation.

[36] *Supra* at n. 35.
[37] *Supra* at n. 34.
[38] Section 6, ch. 2001-227, L.O.F.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.

869598

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Regulated Industries (Jones) recommended the following:

Senate Amendment (with title amendment)

Delete line 31
and insert:
a local code or ordinance has occurred, the unit of local

================ T I T L E A M E N D M E N T ================
And the title is amended as follows:
Delete lines 3 - 6
and insert:
creating s.723.024, F.S.; providing for local code and ordinance violations to be cited to the responsible

869598

party; prohibiting liens, penalties, fines, or

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:	SB 666
INTRODUCER:	Senator Ring
SUBJECT:	Governmental Reorganization
DATE:	March 7, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Imhof	RI	**Pre-meeting**
2.			GO	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill creates the Department of Gaming Control using a type two transfer as defined in s. 20.06(2), F.S. The bill transfers and reassigns all statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds for the administration of ch. 550, F.S., concerning pari-mutuel wagering, ch. 551, F.S., concerning slot machine gaming, and s. 849.086, F.S., concerning cardroom operations from the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to the Department of Gaming Control. The Department of Gaming Control is headed by the gaming commission, which is composed of the Governor and Cabinet.

The bill requires the Department of Gaming Control to issue advisory opinions when requested by any law enforcement official, state attorney, or entity licensed by the department relating to the application of state gaming laws.

The bill moves the game promotions or sweepstakes registration from the Department of Agriculture and Consumer Services to the Department of Gaming Control. The bill removes the $5,000 threshold and instead requires every game promotion to register with the state and to comply with the regulations and rules of the Department of Gaming Control. The bill increases the criminal penalty for a violation of the game promotions statute, s. 849.094, F.S.

The bill creates a regulatory structure for skill-based games being operated in arcade amusement centers and truck stops, operating a minimum of six functional diesel fuel pumps under s. 849.161, F.S. The bill changes definitions, authorizes rulemaking and provides for minimum rules, authorizes investigations, provides for license fees and revenue taxes, and provides for penalties.

This bill substantially amends ss. 11.905, 20.165, 120.80, 285.710, 455.116, 550.002, 550.0115, 550.01215, 550.0235, 550.0251, 550.0351, 550.054, 550.0555, 550.0651, 550.0745, 550.0951, 550.09511, 550.09512, 550.09514, 550.09515, 550.105, 550.1155, 550.0125, 550.135, 550.155, 550.1648, 550.175, 550.1815, 550.24055, 550.2415, 550.2614, 550.26165, 550.2625, 550.26352, 550.2704, 550.334, 550.3345, 550.3355, 550.3551, 550.3615, 550.375, 550.495, 550.505, 550.5251, 550.625, 550.6305, 550.6308, 550.70, 550.902, 550.907, 551.102, 551.103, 551.104, 551.1045, 551.105, 551.106, 551.107, 551.108, 551.109, 551.112, 551.114, 551.117, 551.118, 551.121, 551.122, 551.123, 565.02, 616.09, 616.241, 817.37, 849.086, 849.094, and 849.161, F.S.

This bill creates s. 20.318, F.S.

II. Present Situation:

Gaming Regulation

Currently, gaming is regulated by multiple state agencies. Although gambling is generally illegal,[1] certain gaming activities are authorized. The Department of Business and Professional Regulation (DBPR) oversees the regulation of pari-mutuel wagering, cardrooms, and slot machine gaming. DBPR is also the state compliance agency charged with the oversight of the Seminole Indian Compact. The Department of Lottery conducts all legal lottery gaming. The Department of Agriculture and Consumer Services (DACS) registers and regulates certain game promotions. All other gaming activity is enforced by state attorneys and local law enforcement agencies.

Division of Pari-mutuel Wagering

From 1932 to 1969 Florida's pari-mutuel industry was regulated by the State Racing Commission. In 1970, the commission became the Division of Pari-mutuel Wagering (division) within the Department of Business Regulation.[2] In 1993, the Department of Business Regulation merged with the Department of Professional Regulation and became the Department of Business and Professional Regulation.[3] The mission of the division is the efficient, effective and fair regulation of authorized gaming at pari-mutuel facilities in Florida.[4]

The division's primary responsibilities include:

- Ensuring that races and games are conducted fairly and accurately;
- Ensuring the safety and welfare of racing animals;
- Collecting state revenue accurately and timely;
- Issuing occupational and permitholder operating licenses;
- Regulating pari-mutuel, cardroom, and slot machine operations;

[1] Section 849.08, F.S.
[2] Chapter 69-106, L.O.F.
[3] Chapter 93-220, L.O.F.
[4] http://www.myflorida.com/dbpr/pmw/index.html (last visited February 28, 2011).

- Ensuring that permitholders, licensees, and businesses related to the industries comply with state law; and
- Serving as the State Compliance Agency for the Compact between the Seminole Tribe of Florida and the State of Florida.

The division is funded by the Pari-mutuel Wagering Trust Fund and has a $13.8 million operating budget for fiscal year 2010-2011:

- $9.1 million for the regulation of pari-mutuel wagering and cardrooms
- $4.7 million for the regulation of slot operations (Approximately $400,000 is transferred to the Florida Department of Law Enforcement)

The division has 118 full time positions:

- 66 full time positions for the regulation of pari-mutuel wagering and cardrooms
- 48 full time positions for the regulation of slot machine gaming
- 4 full time positions for the State Compliance Agency for the Gaming Compact

The division is divided into six functional areas:

- The Director's Office – Provides general oversight and administration of the division and oversees the division's budget and safeguards state revenues.
- The Office of Auditing - Conducts audits of permitholders to ensure integrity of wagering activity.
- The Office of Investigations – Examines possible rule, statute, or criminal violations and conducts criminal history and background checks on applicants.
- The Office of Operations - Issues operating licenses to permitholders and issues occupational licenses to businesses and individuals as well as serves as the primary regulator of pari-mutuel operations at pari-mutuel facilities.
- The Office of Slot Operations – Serves as the primary regulator of slot machine operations at pari-mutuel wagering facilities.
- State Compliance Agency - Ensures compliance with the Gaming Compact between the Seminole Tribe of Florida and the State of Florida.

The division collects revenue from the following:

- Taxes and fees from the operation of pari-mutuel events;
- Occupational license fees from businesses and individuals associated with a facility;
- Cardroom license fee of $1,000 per table;
- 10 percent tax on cardroom gross receipts;
- $2.5 million annual slot machine operating license fee from each slot facility for fiscal year 2010-2011 ($2 million each fiscal year thereafter);
- 35 percent tax on net slot machine revenue; and
- $250,000 compulsive and addictive gambling prevention program fee paid annually by each slot facility.[5]

[5] Section 551.118(2), Florida Statutes, require the Division of Pari-mutuel Wagering to contract with a vendor for the prevention of compulsive and addictive gambling. The division currently has a contract with the Florida Council on

The division provides oversight to:

- 35 permitholders operating at 28 facilities:
  - 16 Greyhound
  - 3 Thoroughbred
  - 1 Harness
  - 6 Jai-Alai
  - 1 track offering limited intertrack wagering and horse sales
  - 1 Quarter Horse
- 23 Cardrooms operating at pari-mutuel facilities
- 6 Slot facilities located in Broward and Miami-Dade County pari-mutuel facilities

Greyhound racing was authorized in Florida in 1931.[6] 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.[7]

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. Florida currently has approximately 500 horse farms throughout the state which generate an estimated direct economic impact of approximately $2 billion.[8]

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 bodies. 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 the American Stud Book or in a foreign stud book that is recognized by the Jockey Club and the International Stud Book Committee."[9] Pari-mutuel betting is allowed on the outcome of the race which runs typically from one mile to one and one-quarter mile.[10]

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.[11]

Compulsive and Addictive Gambling. The division does not have any employees dedicated to the implementation of this program.

[6] *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.

[7] Section 550.002(29), F.S.

[8] http://www.floridahorse.com/ (last visited on March 2, 2011).

[9] Section 550.002(35), F.S.

[10] Anything over 870 yards is considered a thoroughbred racing distance.

[11] Section 550.002(33), F.S.

Quarter horse racing is currently only conducted at the Hialeah Park facility located in Miami-Dade County.[12] In addition to Hialeah Park, there are 12 additional quarter horse racing permits issued by DBPR but not licensed to conduct racing.[13] Quarter horses are defined as those developed in the western United States which are capable of high speed for a short distance.[14] 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 with races only permitted at less than 870 yards.

Jai Alai is a game originating from the Basque region in Spain played in a fronton[15] 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 now the only state where Jai Alai is currently played.

Slot Machines - 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 pursuant to the provisions of the constitutional amendment. The division is charged with regulating the operation of slot machines in the affected counties. Of the four eligible in Broward County, three are operating slot machines.[16]

On January 29, 2008, another referendum was held under the provisions of Amendment 4, in which the slot machines in Miami-Dade County were approved. Three additional pari-mutuel facilities are 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). Calder and Flagler are currently operating slot machines.

In addition to the seven locations authorized for slot machines under the Florida Constitution, on July 1, 2010, a statutory amendment expanded the locations that were authorized slot machine gaming to include pari-mutuel facilities located in a charter county or a county that has a referendum approving slots that was approved by law or the Constitution, provided that such facility has conducted live racing for two calendar years preceding its application and complies with other requirements for slot machine licensure.[17] Currently, only existing pari-mutuel facilities in Miami-Dade County qualify for slot machine authorization. Under the statutory

[12] As of February 28, 2011.
[13] *Id.*
[14] Section 550.002(28), F.S.
[15] "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.
[16] Dania Jai Alai has not applied for a license to operate slot machine gaming.
[17] *See*, ch. 2010-29, L.O.F. and s 551.102(4), F.S.

provision, one additional facility became eligible for slot machine gaming: Hialeah Park (a quarter horse facility). Hialeah Park has applied for a license to conduct slot machine gaming but is not currently operating slot machine gaming.

Slot machine licensees are required to pay a licensure fee of $2.5 million for fiscal year 2010-2011. The annual slot machine licensure fee is reduced in fiscal year 2011-2012 to $2 million.[18] In addition to the license fees, the tax rate on slot machine revenues at each facility is 35 percent.[19] If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade counties is less than the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine licensee shall pay to the state within 45 days after the end of the state fiscal year a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year.[20]

Section 551.114(5), F.S., requires a slot machine licensee to provide adequate office space at no cost to the division and the Department of Law Enforcement for the oversight of slot machine operations. The division must adopt rules establishing the criteria for adequate space, configuration, and location and needed electronic and technological requirements for office space required by this subsection.

Public Fairs and Expositions

Twenty-five or more persons who are residents and qualified electors of a county where a public fair is to be located and who wish to form a not-for-profit association for the purpose of conducting and operating public fairs or expositions, may become incorporated by submitting a proposed charter to the Department of Agriculture and Consumer Services (DACS) for review and approval and then presenting the proposal to the judge of the circuit court for the county in which the principal office of the association is to be located.[21] Prior to conducting any fair, the association must apply for and receive a permit from DACS.[22] Fair associations are not authorized to permit any gambling, betting, lottery, or similar act on fair grounds.[23] Any association who commits such a violation is subject to forfeiture of its charter. The Department of Legal Affairs is charged with prosecuting the fair association for such a violation in such a proceeding to annul the association's charter.[24] In addition, any violation of illegal gambling is enforced by local boards and authorities.[25]

[18] Chapter 551.106(1), F.S. Prior to the effective date of 2010-29, L.O.F., the license fee was $3 million.
[19] Chapter 551.106(1), F.S. Prior to the effective date of 2010-29, L.O.F., the tax rate was 50 percent.
[20] Chapter 551.106(2), F.S. The 2008-2009 tax paid on slot machine revenue was $103,895,349. It does not appear that this provision will be triggered because of the additional facilities beginning slot operations. Calder began slot operations in January 2010 and Flagler began operations in October 2009. Miami Jai Alai and Dania Jai Alai have not begun slot operations.
[21] Section 616.01, F.S.
[22] Section 616.15(1), F.S.
[23] Section 616.09, F.S.
[24] *Id.*
[25] Section 616.241(9), F.S.

Game Promotions

In 1971, the Legislature enacted s. 849.094, F.S., which authorizes game promotions (also known as sweepstakes) in connection with the sale of consumer products.
Section 849.094(1)(a), F.S., defines "game promotion" as:

> a contest, game of chance, or gift enterprise, conducted within or throughout the state or other states in connection with the sale of consumer products or services, and in which the elements of chance and prize are present.

This provision is intended to allow companies to promote their products or services with a game promotion. For the purposes of this section, a game promoter, or "operator," cannot be a charitable, nonprofit organization.

The law prohibits operators from manipulating their sweepstakes so that all or part of the winning game pieces are allocated to certain franchisees, agents, or lessees, or to certain geographic areas of the state. Operators may not:

- Arbitrarily remove, disqualify, disallow, or reject any entry;
- Fail to award the prizes advertised;
- Publish false or misleading advertising about the game promotion;
- Require an entry fee, payment, or proof of purchase as a condition of entering the game promotion; or
- Force a lessee, agent, or franchisee to participate in a game promotion.[26]

There is no licensure requirement to conduct game promotions. Instead, operators of a game promotion with an announced total prize value of greater than $5,000 must register the game promotion with DACS [27] and comply with the following requirements:

- File with DACS at least seven days before the commencement of a game promotion a copy of the rules and regulations of the game promotion and a list of all prizes and prize categories offered. A $100 non-refundable fee to DACS to must accompany each filing.[28]
- Conspicuously post the rules and regulations of the game promotion in each retail outlet or place where the game is played or participated in by the public.[29]
- Legibly publish the rules and regulations in all advertising copy about the game promotion. If the advertisements include a website, a toll-free telephone number, or a mailing address where the full rules and regulations may be viewed, heard, or obtained for the duration of the promotion, the advertising copy only has to include the material terms of the rules and regulations.[30]

[26] Sections 849.094(2) and (7), F.S.
[27] Section 849.094(3), F.S.
[28] *Id.*
[29] Section 849.094(3), F.S.
[30] *Id.*

- Financially back the prize pool with either a trust account or a surety bond. [31]
    - The trust account must be in a national or state-chartered financial institution, with a balance sufficient to pay or purchase the total value of all prizes offered. On a DACS-supplied form, an officer of the financial institution holding the trust account shall report the amount of money in the account, who established the trust account, and the name of the game promotion for which the account was established. The form must be filed within seven days of the game promotion.
    - In lieu of the trust account, the operator may demonstrate to DACS that it has obtained a surety bond equal to the total amount of prizes offered.
    - DACS may waive this requirement if the operator has conducted game promotions in Florida for at least five consecutive years and has not had any criminal, civil, or administrative actions filed against him by the state related to s. 849.094, F.S.
- Furnish DACS with a certified list of the names and addresses of all persons who won prizes valued at $25 or more, and the dates on which they won. This list must be provided to DACS within 60 days of the winners being determined. DACS must retain this list for at least six months before disposing of it. [32]

The Department of Agriculture and Consumer Services has the authority to adopt rules to enforce the game-promotion statute. Also, DACS and the Department of Legal Affairs have the authority to bring action in circuit court against any operator that they have reason to believe is in violation of s. 849.094, F.S.

Violators of the provisions in s. 849.094, F.S., or the rules adopted by DACS, are guilty of a second-degree misdemeanor, punishable by a maximum 60 days in jail and a $500 fine.[33] Also, DACS may pursue civil penalties against violators of up to $1,000 per violation.[34]

Exempted from the provisions of s. 849.094, F.S., are activities regulated by the Department of Business and Professional Regulation, the activities of nonprofit organizations, and any organization engaged in activities that do not involve the sale of consumer products or services. Also, the registration and oversight provisions do not apply to television or radio broadcasting companies licensed by the Federal Communications Commission.

When s. 849.094, F.S., was created in 1971, the Internet as we know it today did not exist, nor were computers or machines routinely used in connection with game promotions. Utilizing electronic machines as game promotions in so-called "Internet cafes" is a relatively new occurrence in Florida.

In 2006, DACS received a game promotion filing from a company to put free-standing game promotion machines in truck stops. [35] The machines would dispense phone cards for $5, and

[31] Section 849.094(4), F.S.
[32] Section 849.094(5), F.S.
[33] Section 849.094(9), F.S.
[34] Violations may include failing to post the game promotion rules or failing to maintain a surety bond in the amount of the total prize pot.

award the consumer a certain number of credits or game points which would have no cash value, but could be used to play a video game. The games resembled traditional slot machines, including three rows of three symbols that appear to spin, and depending on the final configuration revealed as a result of the predetermined game promotion entry, the consumer could earn prize credits which could be redeemed for cash. This company filed 20 separate game promotions in February 2007, and DACS treated each machine as a separate game promotion. Also in that same month, DACS began to see an influx of similar game promotions in different regions of the state.

As of November 6, 2008, there were at least 61 electronic game promotions registered with DACS. As of January 25, 2011, there are 15,586 registered game promotions.[36]

Although there are no official numbers, several representatives of the larger sweepstakes software and Internet café operations estimate there are about 1,000 locations in Florida where electronic game promotion machines are used. According to those representatives, about half are state law compliant, meaning they provide game promotion entries in conjunction with the sale of a consumer product, register their game promotion with DACS when applicable, and operate a true game promotion with a finite number of winning entries that are paid out to the winners.

Arcade Games

Numerous arcade games are currently in operation throughout the State of Florida. Unfortunately, no concrete information may be formulated as these machines are not required to be registered or regulated by any specific state entity.

Section 849.161, F.S., provides an exception to the slot machine prohibition in ch. 849, F.S.[37] Amusement games and machines are authorized in an arcade amusement center[38] that operate by means of the insertion of a coin and which, by application of skill, the person playing the game receives points or coupons redeemable for merchandise only, excluding cash and alcoholic beverages. The value of the prize cannot exceed 75 cents on any game played.[39]

Similar provisions govern retail dealers who operate truck stops with a minimum of six functional diesel fuel pumps. The merchandise for these machines is limited to "noncash prizes, toys, novelties, and Florida Lottery products, excluding alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played."[40]

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[35] *Review of Electronic Gaming Exceptions for Adult Arcades and Game Promotions,* Interim Report No. 2009-123, Florida Senate Committee on Regulated Industries, November 2008. A copy of the report is available at: http://archive.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-123ri.pdf.

[36] According to the numbers provided by DACS. The number of registered game promotions changes daily as new game promotions begin and old game promotions end.

[37] *See* ss. 849.15 and 849.16, F.S.

[38] Amusement center is defined in s. 849.161(2), F.S. as "a place of business having at least 50 coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility."

[39] Section 849.161(1)(a)1., F.S.

[40] Section 849.161(1)(a)2., F.S.

Section 849.161(1)(b), F.S., also provides an exemption for

> coin-operated game or device designed and manufactured only for bona fide amusement purposes which game or device may by application of skill entitle the player to replay the game or device at no additional cost, if the game or device: can accumulate and react to no more than 15 free replays; can be discharged of accumulated free replays only by reactivating the game or device for one additional play for such accumulated free replay; can make no permanent record, directly or indirectly, of free replays; and is not classified by the United States as a gambling device . . .

Type Two Transfers

Section 20.104(2), F.S., provides for a type-two transfer:

> A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.
>
> > (a) Any agency or department or a program, activity, or function thereof transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided by law. The transfer of segregated funds must be made in such a manner that the relation between program and revenue source as provided by law is retained.
> > (b) Unless otherwise provided by law, the head of the agency or department to which an existing agency or department or a program, activity, or function thereof is transferred is authorized to establish units or subunits to which the agency or department is assigned, and to assign administrative authority for identifiable programs, activities, or functions, to the extent authorized in this chapter.
> > (c) Unless otherwise provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

III. Effect of Proposed Changes:

The bill creates the Department of Gaming Control.

Section 1. Transfers the administration of chs. 550, 551, and 849, F.S., of the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to the Department of Gaming Control by a type two transfer. This section also transfers the Pari-mutuel Wagering and Racing Scholarship Trust Funds from the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to the Department of Gaming Control.

Section 2. Amends s. 11.905, F.S., requiring a review of the Department of Gaming Control by July 1, 2022.

Section 3. Amends s. 20.165, F.S., removing the Division of Pari-mutuel Wagering from the Department of Business and Professional Regulation.

Section 4. Creates the Department of Gaming Control (department) and the Gaming Commission (commission). The bill provides that the commission shall be composed of the Governor and Cabinet and shall serve as agency head for the department. The commission shall be responsible for appointing and removing the executive director and general counsel for the department.

This section creates five divisions within the department, including a division of licensing, revenue and audits, investigation, law enforcement, and prosecution. The department is required to submit an annual budget to the Legislature and adopt rules to administer the laws under its authority.

This section requires the department to provide advisory opinions when requested by any law enforcement official, state attorney, or entity licensed by the department relating to the application of state gaming laws with respect to whether a particular act or device constitutes legal or illegal gambling under state laws and administrative rules. The bill provides that any person acting in good faith upon an advisory opinion that such person requested is not subject to any criminal penalty for illegal gambling.

This section provides that the department may employ sworn law enforcement officers. The section provides that the department must work with the Department of Revenue to ensure that licensees are in compliance with child support laws concerning support orders, subpoenas, orders to show cause, or written agreements with the Department of Revenue. In addition, this section provides that the department must close licenses after two year of providing notice of any deficiency to the applicant and must approve licenses that meet all statutory and rule requirements for licensure.

Section 5. Amends s. 120.80, F.S., deleting the exemption for hearing and notice requirements that applied to the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation. The section creates the same exemptions for the activities of the Department of Gaming Control.

Section 6. Provides that the Department of Gaming Control is the state compliance agency having the authority to carry out the state's oversight responsibilities under the Seminole Indian Compact and removes the reference to the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.

Section 7. Removes the Pari-mutuel Wagering Trust Fund from the Department of Business and Professional Regulation.

Sections 8 - 69. Delete references to the Division of Pari-mutuel Wagering and replaces them with Department of Gaming Control. These sections require annual reports to be sent to the President of the Senate and Speaker of the House of Representatives instead of the Governor. These sections correct cross references and remove expired terms. In addition, these sections amend language to conform to current bill drafting conventions.

Section 70. Amends s. 616.09, F.S., to provide that the Department of Gaming Control, rather than the Department of Legal Affairs, shall be responsible for instituting and prosecuting cases against fairs, for purposes of annulling the fair charter, alleging that the association was organized for or is being used as a cover to evade any of the laws of Florida against crime.

Section 71. Amends s. 616.241, F.S., providing that enforcement of illegal gaming violations at public fairs and expositions is the responsibility of the Department of Gaming Control, local boards, and authorities.

Section 72. Amends s. 817.37, F.S., removing references to the Division of Pari-mutuel Wagering and replacing them with the Department of Gaming Control.

Section 73. Amends s. 849.086, F.S., pertaining to cardrooms. The section removes references to the Division of Pari-mutuel wagering and replaces them with the Department of Gaming Control. In addition, this section also allows cardrooms to utilize mechanical card shufflers.

Section 74. Amends s. 849.094, F.S., pertaining to game promotions. The section provides that the oversight of the game promotion regulations shall be the responsibility of the Department of Gaming Control instead of the Department of Agriculture and Consumer Services. In addition, this section removes the $5,000 threshold requirements for registering game promotions, posting bonds, and providing certified list of persons who have won prizes of more than $25. Instead, all game promotions are required to comply with all requirements and register with the Department of Gaming Control. In addition, this section increases the criminal penalties for a violation of the game promotion regulations to a third degree felony from a second degree misdemeanor.[41]

Section 75. Amends s. 849.161, F.S., pertaining to amusement games or machines. The section provides that ch. 849, F.S., does not apply to arcade amusement centers having games or machines that operate by means of the insertion of a coin and that by application of skill entitle the player to receive points or coupons that may be exchanged for merchandise, limited to prizes, toys, novelties, or Florida Lottery products. It adds the ability to use other currency in the machines. This section defines "application of skill" to mean a better measure of success in playing the game than could be mathematically expected on the basis of random chance alone. The section defines "department" as the Department of Gaming Control. The section provides that the department shall adopt rules necessary to regulate the skill-based gaming, which must include requirements for licensure, procedures to scientifically test the machines, and procedures relating to audits and revenues. This section gives the department authority to investigate and inspect the gaming facilities and machines. This section requires the department to issue licenses, collect licensing fees, and collect a 15 percent tax off of the operator's monthly gross receipts.

[41] A third degree felony is punishable by a term of imprisonment not to exceed five years and a fine not to exceed $5,000. Sections 775.082(3)(d) and 775.083(1)(c), F.S.

Section 76. Provides that the act shall take effect on July 1, 2011, if legislation creating the Florida Gaming Trust Fund is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

SB 668 provides for the Florida Gaming Trust Fund within the Department of Gaming Control.

D. Other

The license fee for amusement arcade centers is not established or capped in the bill. This may be an unlawful delegation of legislative authority to the agency. The separation-of-powers doctrine prevents the Legislature from delegating its constitutional duties.[42] The Legislature must adopt standards sufficient to guide administrative agencies in the performance of their duties.[43]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

At this time, there has not been a revenue estimating conference to determine the impact of this bill. The bill does increase revenue tax on amusement arcade skill based machines to 15 percent. There is a license fee for amusement arcade centers which will be assessed to pay for the regulatory scheme, and as noted above, the licensing fee is not established in the bill.

B. Private Sector Impact:

Representatives from veteran's groups, truck stops, and amusement arcades have raised concerns regarding the fiscal impact of the tax and inspection requirements in the bill.

[42] *Board of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).
[43] *Avatar Development Corporation v. State*, 723 So.2d 199 (Fla. 1998).

C. Government Sector Impact:

A type-two transfer assumes that the positions and budget will be transferred and remain the same; however, with the new structuring and creation of a new agency, workload and positions may differ. This fiscal impact is indeterminate at this time.

For DBPR, the impact of removing the division on workload and staffing is indeterminate.

According to the division, the bill does not transfer the personnel and functions of the division's legal section within DBPR's Office of the General Counsel. The legal section includes four attorneys, two administrative assistants, and a law clerk position that currently provide direct legal support to the division.

Additionally, the bill authorizes the Department of Gaming Control to employ sworn law enforcement officers and establishes a Division of Law Enforcement. Currently, the division does not employ sworn law enforcement officers. Consequently, additional full time employees, including law enforcement officers and support staff, may also be needed. It is unclear if there will be a fiscal impact for the provision that establishes law enforcement personnel within the new department.

The division indicated that it utilizes a system called LicenseEase for the issuance of pari-mutuel, cardroom, and slot machine operating licenses; occupational licenses; and administrative complaints. Other entities within DBPR utilize this system. In addition, the division utilizes a revenue system called the Central Management System. This system is made specifically for the division and is only used by the division. If the bill is passed, the Department of Gaming Control may need to develop a new licensing system. In addition, the contract for the revenue system is between DBPR and ESI. A new contract may need to be negotiated or a new revenue system may need to be developed as a result of this transition. Additionally, DBPR has electronic images and workflow automation in an OnBase Document Management System that will require conversion to the new agency.

The division noted that the entirety of the division's technology systems will need to be separated from DBPR's systems. This involves building extract files to pull data from the Single Licensing System, the OnBase Document Management System and the Central Management System. The Department of Business and Professional Regulation will need to contract with the product vendors for these systems to create these extract routines that will compile division specific data from these systems and provide that information to the new department to allow for the continuation of the licensing and compliance functions. This work effort is estimated to be a non-recurring contracted services expense of $168,000.

After the new agency is formed, DBPR pointed out that it will need to receive the requirements for the extract file formats needed to load data into the data systems established by the Department of Gaming Control. The Division of Technology cannot begin work until these requirements have been defined.

The Department of Agriculture and Consumer Services estimates that the transfer of game promotion regulations to the new agency will result in a loss of $499,817 in revenue and $250,140 in employee salary and related expenses in authority from the General Inspection Trust Fund within DACS. The net costs to DACS is estimated to be $314,508.

The impact of the revenues from the amusement arcade centers is not known at this time.

VI. Technical Deficiencies:

On line 31 of the bill, Commission on Gaming should read Department of Gaming Control.

On line 5386, the Department of Agriculture and Consumer Services should read Department of Gaming Control.

On line 5648, the reference to slot machine revenues should be amended to refer to skill-based machine revenues.

VII. Related Issues:

Revenue sharing with the Seminole Indian Compact relies on continued exclusivity of casino style and Class III gaming. Games legal as of February 1, 2010 have no impact on payments from the Tribe. This bill merges the regulation of pari-mutuel wagering, cardrooms, slot machines, the regulation of game promotion, and the regulation of skill-based games into one agency. The bill creates an agency for the purpose of issuing advisory opinions on the issues of permitted gaming in the state. In addition, the bill imposes additional regulations, taxes, and fees on the skill-based machines authorized in s. 849.161, F.S. The bill does not authorize any new Class III or casino-style game. Instead, the bill only combines multiple regulatory agencies into one and further restricts and regulates game promotions and amusement games within the state. As a result, the bill should have no effect on the revenue sharing payments with the Tribe.

VIII. Additional Information:

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

None.

B. Amendments:

None.

313906

LEGISLATIVE ACTION

Senate . House

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The Committee on Regulated Industries (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Transfers.—

(1) All of the statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds for the administration of chapter 550, Florida Statutes, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to the

313906

Department of Gaming Control.

(2) All of the statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds for the administration of chapter 551, Florida Statutes, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to the Department of Gaming Control.

(3) All of the statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds for the administration of s. 849.086, Florida Statutes, are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to the Department of Gaming Control.

(4) The following trust funds are transferred from the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to the Department of Gaming Control:

(a) Pari-mutuel Wagering Trust Fund.

(b) Racing Scholarship Trust Fund.

Section 2. Paragraph (c) is added to subsection (8) of section 11.905, Florida Statutes, to read:

11.905 Schedule for reviewing state agencies and advisory committees.—The following state agencies, including their advisory committees, or the following advisory committees of agencies shall be reviewed according to the following schedule:

(8) Reviewed by July 1, 2022:

313906

(c) Department of Gaming Control.

Upon completion of this cycle, each agency shall again be subject to sunset review 10 years after its initial review.

Section 3. Subsection (2) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(2) The following divisions of the Department of Business and Professional Regulation are established:

(a) Division of Administration.

(b) Division of Alcoholic Beverages and Tobacco.

(c) Division of Certified Public Accounting.

1. The director of the division shall be appointed by the secretary of the department, subject to approval by a majority of the Board of Accountancy.

2. The offices of the division shall be located in Gainesville.

(d) Division of Florida Condominiums, Timeshares, and Mobile Homes.

(e) Division of Hotels and Restaurants.

~~(f) Division of Pari-mutuel Wagering.~~

(f) ~~(g)~~ Division of Professions.

(g) ~~(h)~~ Division of Real Estate.

1. The director of the division shall be appointed by the secretary of the department, subject to approval by a majority of the Florida Real Estate Commission.

2. The offices of the division shall be located in Orlando.

313906

(h) ~~(i)~~ Division of Regulation.
(i) ~~(j)~~ Division of Technology.
(j) ~~(k)~~ Division of Service Operations.
Section 4. Section 20.318, Florida Statutes, is created to read:
20.318 Department of Gaming Control.—There is created a Department of Gaming Control.
(1) GAMING COMMISSION.—There is created the Gaming Commission, composed of the Governor and Cabinet. The commission members shall serve as agency head of the Department of Gaming Control. The commission shall be responsible for appointing and removing the executive director and general counsel.
(2) DIVISIONS.—The Department of Gaming Control shall consist of the following divisions:
(a) The Division Licensing.
(b) The Division of Revenue and Audits.
(c) The Division of Investigation.
(d) The Division of Law Enforcement.
(e) The Division of Prosecution.
(3) DEFINITIONS.-As used in this section, the term:
(a) "Commission" means the Gaming Commission.
(b) "Department" means the Department of Gaming Control.
(c) "Gaming control" means any gaming activity, occupation, or profession regulated by the department.
(d) "License" means any permit, registration, certificate, or license issued by the department.
(e) "Licensee" means any person issued a permit, registration, certificate, or license by the department.
(4) POWERS AND DUTIES.—

313906

(a) License renewals.—The department shall adopt rules establishing a procedure for the renewal of licenses.

(b) Annual budget.—The department shall submit an annual budget to the Legislature at a time and in the manner provided by law.

(c) Rulemaking.—The department shall adopt rules to administer the laws under its authority.

(d) The department shall require an oath on application documents as required by rule, which oath must state that the information contained in the document is true and complete.

(e) The department shall adopt rules for the control, supervision, and direction of all applicants, permittees, and licensees and for the holding, conducting, and operating of any gaming establishment under the jurisdiction of the department in this state. The department shall have the authority to suspend a permit or license under the jurisdiction of the department, if such permitholder or licensee has violated provisions of chapters 550, 551 and 849 or rules adopted by the department. Such rules must be uniform in their application and effect, and the duty of exercising this control and power is made mandatory upon the department.

(f) The department may take testimony concerning any matter within its jurisdiction and issue summons and subpoenas for any witness and subpoenas duces tecum in connection with any matter within the jurisdiction of the department under its seal and signed by the director.

(g) In addition to the power to exclude certain persons from any pari-mutuel facility in this state, the department may exclude any person from any and all gaming establishments under

313906

the jurisdiction of the department in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the department. The department may exclude from any gaming establishment under its jurisdiction within this state any person who has been ejected from a pari-mutuel facility or other gaming establishment in this state or who has been excluded from any pari-mutuel facility or other gaming establishment in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over such facilities in such other state. The department may authorize any person who has been ejected or excluded from establishments in this state or another state to enter such facilities in this state upon a finding that the attendance of such person would not be adverse to the public interest or to the integrity of the industry; however, this subsection shall not be construed to abrogate the common-law right of a pari-mutuel permitholder or a proprietor of a gaming establishment to exclude absolutely a patron in this state.

(h) The department may collect taxes and require compliance with reporting requirements for financial information as authorized by this chapter. In addition, the executive director of the department may require gaming establishments within its jurisdiction within the state to remit taxes, including fees, by electronic funds transfer.

(i) The department may conduct investigations necessary for enforcing this chapter

(j) The department may impose an administrative fine for a violation under this chapter of not more than $1,000 for each

313906

count or separate offense, except as otherwise provided in this chapter, and may suspend or revoke a permit, a operating license, or an occupational license for a violation under this chapter. All fines imposed and collected under this subsection must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

(k) The department shall have full authority and power to make, adopt, amend, or repeal rules relating to gaming operations, to enforce and to carry out the provisions of chapter 849, and to regulate authorized gaming activities in the state.

(l) Advisory opinions.—The department shall provide advisory opinions when requested by any law enforcement official, state attorney, or entity licensed by the department relating to the application of state gaming laws with respect to whether a particular act or device constitutes legal or illegal gambling under state laws and administrative rules adopted thereunder. A written record shall be retained of all such opinions issued by the department, which shall be sequentially numbered, dated, and indexed by subject matter. Any person or entity acting in good faith upon an advisory opinion that such person or entity requested and received is not subject to any criminal penalty provided for under state law for illegal gambling. The opinion, until amended or revoked, is binding on any person or entity who sought the opinion, or with reference to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion. The department may adopt rules regarding the process for securing an advisory opinion and may require in those rules the

313906

submission of any potential gaming apparatus for testing by a licensed testing laboratory to prove or disprove its compliance with state law before the issuance of an opinion by the department.

(m) Law enforcement officers.—The department may employ sworn law enforcement officers as defined in s. 943.10 to enforce the provisions of any statute or any other laws of this state related to gambling within the Division of Law Enforcement and to enforce any other criminal law or to conduct any criminal investigation.

1. Each law enforcement officer shall meet the qualifications for law enforcement officers under s. 943.13 and shall be certified as a law enforcement officer by the Department of Law Enforcement under chapter 943. Upon certification, each law enforcement officer is subject to and shall have authority provided for law enforcement officers generally in chapter 901 and shall have statewide jurisdiction. Each officer shall also have full law enforcement powers.

2. The department may also appoint part-time, reserve, or auxiliary law enforcement officers under chapter 943.

3. Each law enforcement officer of the department, upon certification pursuant to s. 943.1395, has the same right and authority to carry arms as do the sheriffs of this state.

4. Each law enforcement officer in the state who is certified pursuant to chapter 943 has the same authority as law enforcement officers designated in this section to enforce the laws of this state as described in this paragraph.

(5) FINANCIALLY DEPENDENT CHILDREN; SUPPORT.—The department shall work cooperatively with the Department of Revenue to

313906

implement an automated method for periodically disclosing information relating to current licensees to the Department of Revenue. The purpose of this subsection is to promote the public policy of this state as established in s. 409.2551. The department shall, when directed by the court or the Department of Revenue pursuant to s. 409.2598, suspend or deny the license of any licensee found not to be in compliance with a support order, subpoena, order to show cause, or written agreement entered into by the licensee with the Department of Revenue. The department shall issue or reinstate the license without additional charge to the licensee when notified by the court or the Department of Revenue that the licensee has complied with the terms of the support order. The department is not liable for any license denial or suspension resulting from the discharge of its duties under this subsection.

(6) LICENSING.—The department may:

(a) Close and terminate deficient license application files 2 years after the department notifies the applicant of the deficiency; and

(b) Approve gaming-related licenses that meet all statutory and rule requirements for licensure.

Section 5. Subsection (4) of section 120.80, Florida Statutes, is amended, and subsection (18) is added to that section to read:

120.80 Exceptions and special requirements; agencies.—

(4) DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION.—

~~(a) Business regulation.—The Division of Pari-mutuel Wagering is exempt from the hearing and notice requirements of ss. 120.569 and 120.57(1)(a), but only for stewards, judges, and~~

313906

~~boards of judges when the hearing is to be held for the purpose of the imposition of fines or suspensions as provided by rules of the Division of Pari-mutuel Wagering, but not for revocations, and only upon violations of subparagraphs 1.-6. The Division of Pari-mutuel Wagering shall adopt rules establishing alternative procedures, including a hearing upon reasonable notice, for the following violations:~~

~~1. Horse riding, harness riding, greyhound interference, and jai alai game actions in violation of chapter 550.~~

~~2. Application and usage of drugs and medication to horses, greyhounds, and jai alai players in violation of chapter 550.~~

~~3. Maintaining or possessing any device which could be used for the injection or other infusion of a prohibited drug to horses, greyhounds, and jai alai players in violation of chapter 550.~~

~~4. Suspensions under reciprocity agreements between the Division of Pari-mutuel Wagering and regulatory agencies of other states.~~

~~5. Assault or other crimes of violence on premises licensed for pari-mutuel wagering.~~

~~6. Prearranging the outcome of any race or game.~~

~~(b) Professional regulation.—~~Notwithstanding s. 120.57(1)(a), formal hearings may not be conducted by the Secretary of Business and Professional Regulation or a board or member of a board within the Department of Business and Professional Regulation for matters relating to the regulation of professions, as defined by chapter 455.

(18) DEPARTMENT OF GAMING CONTROL.—The department is exempt from the hearing and notice requirements of ss. 120.569 and

313906

120.57(1)(a) as it applies to stewards, judges, and boards of judges if the hearing is to be held for the purpose of the imposition of fines or suspension as provided by rules of the department, but not for revocations, and only to consider violations of paragraphs (a)-(f). The department shall adopt rules establishing alternative procedures, including a hearing upon reasonable notice, for the following violations:

(a) Horse riding, harness riding, greyhound interference, and jai alai game actions in violation of chapter 550.

(b) Application and administration of drugs and medication to horses, greyhounds, and jai alai players in violation of chapter 550.

(c) Maintaining or possessing any device that could be used for the injection or other infusion of a prohibited drug into horses, greyhounds, and jai alai players in violation of chapter 550.

(d) Suspensions under reciprocity agreements between the department and regulatory agencies of other states.

(e) Assault or other crimes of violence on premises licensed for pari-mutuel wagering.

(f) Prearranging the outcome of any race or game.

Section 6. Paragraph (f) of subsection (1) and subsection (7) of section 285.710, Florida Statutes, are amended to read:

285.710 Compact authorization.—

(1) As used in this section, the term:

(f) "State compliance agency" means the ~~Division of Pari-mutuel Wagering of the~~ Department of Gaming Control, ~~Business and Professional Regulation~~ which is designated as the state agency having the authority to carry out the state's oversight

313906

responsibilities under the compact.

(7) The ~~Division of Pari-mutuel Wagering of the~~ Department of Gaming Control ~~Business and Professional Regulation~~ is designated as the state compliance agency having the authority to carry out the state's oversight responsibilities under the compact authorized by this section.

Section 7. Section 455.116, Florida Statutes, is amended to read:

455.116 Regulation trust funds.—The following trust funds shall be placed in the department:

(1) Administrative Trust Fund.

(2) Alcoholic Beverage and Tobacco Trust Fund.

(3) Cigarette Tax Collection Trust Fund.

(4) Hotel and Restaurant Trust Fund.

(5) Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.

~~(6) Pari-mutuel Wagering Trust Fund.~~

(6)~~(7)~~ Professional Regulation Trust Fund.

Section 8. Subsections (6), (7), and (11) of section 550.002, Florida Statutes, are amended, and present subsections (8) through (39) of that section are renumbered as subsections (7) through (38), respectively, to read:

550.002 Definitions.—As used in this chapter, the term:

(6) "Department" means the Department of Gaming Control ~~Business and Professional Regulation~~.

~~(7) "Division" means the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation.~~

(10)~~(11)~~ "Full schedule of live racing or games" means, for a greyhound or jai alai permitholder, the conduct of a

313906

combination of at least 100 live evening or matinee performances during the preceding year; for a permitholder who has a converted permit or filed an application on or before June 1, 1990, for a converted permit, the conduct of a combination of at least 100 live evening and matinee wagering performances during either of the 2 preceding years; for a jai alai permitholder who does not operate slot machines in its pari-mutuel facility, who has conducted at least 100 live performances per year for at least 10 years after December 31, 1992, and whose handle on live jai alai games conducted at its pari-mutuel facility has been less than $4 million per state fiscal year for at least 2 consecutive years after June 30, 1992, the conduct of a combination of at least 40 live evening or matinee performances during the preceding year; for a jai alai permitholder who operates slot machines in its pari-mutuel facility, the conduct of a combination of at least 150 performances during the preceding year; for a harness permitholder, the conduct of at least 100 live regular wagering performances during the preceding year; for a quarter horse permitholder at its facility unless an alternative schedule of at least 20 live regular wagering performances is agreed upon by the permitholder and either the Florida Quarter Horse Racing Association or the horsemen’s association representing the majority of the quarter horse owners and trainers at the facility and filed with the department ~~division~~ along with its annual date application, in the 2010-2011 fiscal year, the conduct of at least 20 regular wagering performances, in the 2011-2012 and 2012-2013 fiscal years, the conduct of at least 30 live regular wagering performances, and for every fiscal year after the 2012-2013

313906

fiscal year, the conduct of at least 40 live regular wagering performances; for a quarter horse permitholder leasing another licensed racetrack, the conduct of 160 events at the leased facility; and for a thoroughbred permitholder, the conduct of at least 40 live regular wagering performances during the preceding year. For a permitholder that ~~which~~ is restricted by statute to certain operating periods within the year when other members of its same class of permit are authorized to operate throughout the year, the specified number of live performances that ~~which~~ constitute a full schedule of live racing or games shall be adjusted pro rata in accordance with the relationship between its authorized operating period and the full calendar year and the resulting specified number of live performances shall constitute the full schedule of live games for such permitholder and all other permitholders of the same class within 100 air miles of such permitholder. A live performance must consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week at the permitholder's licensed facility under a single admission charge.

Section 9. Section 550.0115, Florida Statutes, is amended to read:

550.0115 Permitholder license.—After a permit has been issued by the department ~~division~~, and after the permit has been approved by election, the department ~~division~~ shall issue to the permitholder an annual license to conduct pari-mutuel operations at the location specified in the permit pursuant to the provisions of this chapter.

Section 10. Section 550.01215, Florida Statutes, is amended to read:

313906

550.01215 License application; periods of operation; bond, conversion of permit.—

(1) Each permitholder shall annually, during the period between December 15 and January 4, file in writing with the department ~~division~~ its application for a license to conduct performances during the next state fiscal year. Each application shall specify the number, dates, and starting times of all performances that ~~which~~ the permitholder intends to conduct. It shall also specify which performances will be conducted as charity or scholarship performances. In addition, each application for a license shall include, for each permitholder that ~~which~~ elects to operate a cardroom, the dates and periods of operation the permitholder intends to operate the cardroom or, for each thoroughbred permitholder that ~~which~~ elects to receive or rebroadcast out-of-state races after 7 p.m., the dates for all performances that ~~which~~ the permitholder intends to conduct. Permitholders shall be entitled to amend their applications through February 28.

(2) After the first license has been issued to a permitholder, all subsequent annual applications for a license shall be accompanied by proof, in such form as the department ~~division~~ may by rule require, that the permitholder continues to possess the qualifications prescribed by this chapter, and that the permit has not been disapproved at a later election.

(3) The department ~~division~~ shall issue each license no later than March 15. Each permitholder shall operate all performances at the date and time specified on its license. The department may ~~division shall have the authority to~~ approve minor changes in racing dates after a license has been issued.

313906

The department ~~division~~ may approve changes in racing dates after a license has been issued when there is no objection from any operating permitholder located within 50 miles of the permitholder requesting the changes in operating dates. In the event of an objection, the department ~~division~~ shall approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates. In making the determination to change racing dates, the department ~~division~~ shall consider ~~take into consideration~~ the impact of such changes on state revenues.

(4) If ~~In the event that~~ a permitholder fails to operate all performances specified on its license at the date and time specified, the department ~~division~~ shall hold a hearing to determine whether to fine or suspend the permitholder's license, unless such failure was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder does ~~shall~~ not, in and of itself, constitute just cause for failure to operate all performances on the dates and at the times specified.

(5) If ~~In the event that~~ performances licensed to be operated by a permitholder are vacated, abandoned, or will not be used for any reason, any permitholder shall be entitled, pursuant to rules adopted by the department ~~division~~, to apply to conduct performances on the dates for which the performances have been abandoned. The department ~~division~~ shall issue an amended license for all such replacement performances that ~~which~~ have been requested in compliance with the provisions of this

313906

chapter and department ~~division~~ rules.

(6) Any permit that ~~which~~ was converted from a jai alai permit to a greyhound permit may be converted to a jai alai permit at any time if the permitholder never conducted greyhound racing or if the permitholder has not conducted greyhound racing for a period of 12 consecutive months.

Section 11. Section 550.0235, Florida Statutes, is amended to read:

550.0235 Limitation of civil liability.—A ~~No~~ permittee conducting a racing meet pursuant to the provisions of this chapter; the executive director, ~~no~~ division director, bureau chief, or an employee of the department ~~division~~; or a ~~and no~~ steward, judge, or other person appointed to act pursuant to this chapter is not ~~shall be held~~ liable to any person, partnership, association, corporation, or other business entity for any cause whatsoever arising out of, or from, the performance by such permittee, director, employee, steward, judge, or other person of her or his duties and the exercise of her or his discretion with respect to the implementation and enforcement of the statutes and rules governing the conduct of pari-mutuel wagering, so long as she or he acted in good faith. This section does ~~shall~~ not limit liability in any situation in which the negligent maintenance of the premises or the negligent conduct of a race contributed to an accident and does not~~; nor shall it~~ limit any contractual liability.

Section 12. Section 550.0251, Florida Statutes, is amended to read:

550.0251 The powers and duties of the Department of Gaming Control ~~Division of Pari-mutuel Wagering of the Department of~~

313906

~~Business and Professional Regulation~~.—The department ~~division~~ shall administer this chapter and regulate the pari-mutuel industry under this chapter and the rules adopted pursuant thereto, and:

(1) The department ~~division~~ shall make an annual report to the President of the Senate and the Speaker of the House of Representatives ~~Governor~~ showing its own actions, receipts derived under the provisions of this chapter, the practical effects of the application of this chapter, and any suggestions it may approve for the more effectual accomplishments of the purposes of this chapter.

(2) The department ~~division~~ shall require an oath on application documents as required by rule, which oath must state that the information contained in the document is true and complete.

(3) The department ~~division~~ shall adopt reasonable rules for the control, supervision, and direction of all applicants, permittees, and licensees and for the holding, conducting, and operating of all racetracks, race meets, and races held in this state. Such rules must be uniform in their application and effect, and the duty of exercising this control and power is made mandatory upon the department ~~division~~.

(4) The department ~~division~~ may take testimony concerning any matter within its jurisdiction and issue summons and subpoenas for any witness and subpoenas duces tecum in connection with any matter within the jurisdiction of the department ~~division~~ under its seal and signed by the director.

(5) The department ~~division~~ may adopt rules establishing procedures for testing occupational licenseholders officiating

313906

at or participating in any race or game at any pari-mutuel facility under the jurisdiction of the department ~~division~~ for a controlled substance or alcohol and may prescribe procedural matters not in conflict with s. 120.80(18) ~~s. 120.80(4)(a)~~.

(6) In addition to the power to exclude certain persons from any pari-mutuel facility in this state, the department ~~division~~ may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the department ~~division~~. The department ~~division~~ may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state or who has been excluded from any pari-mutuel facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state. The department ~~division~~ may authorize any person who has been ejected or excluded from pari-mutuel facilities in this state or another state to attend the pari-mutuel facilities in this state upon a finding that the attendance of such person at pari-mutuel facilities would not be adverse to the public interest or to the integrity of the sport or industry; however, this subsection does ~~shall~~ not ~~be construed to~~ abrogate the common-law right of a pari-mutuel permitholder to exclude absolutely a patron in this state.

(7) The department ~~division~~ may oversee the making of, and distribution from, all pari-mutuel pools.

(8) The department ~~department~~ may collect taxes and require compliance with reporting requirements for financial information

313906

as authorized by this chapter. In addition, the ~~secretary of the~~ department may require permitholders conducting pari-mutuel operations within the state to remit taxes, including fees, by electronic funds transfer if the taxes and fees amounted to $50,000 or more in the prior reporting year.

(9) The department ~~division~~ may conduct investigations in enforcing this chapter, except that all information obtained pursuant to an investigation by the department ~~division~~ for an alleged violation of this chapter or rules of the department ~~division~~ is exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution until an administrative complaint is issued or the investigation is closed or ceases to be active. This subsection does not prohibit the department ~~division~~ from providing such information to any law enforcement agency or to any other regulatory agency. For the purposes of this subsection, an investigation is considered to be active while it is being conducted with reasonable dispatch and with a reasonable, good faith belief that it could lead to an administrative, civil, or criminal action by the department ~~division~~ or another administrative or law enforcement agency. Except for active criminal intelligence or criminal investigative information, as defined in s. 119.011, and any other information that, if disclosed, would jeopardize the safety of an individual, all information, records, and transcriptions become public when the investigation is closed or ceases to be active.

(10) The department ~~division~~ may impose an administrative fine for a violation under this chapter of not more than $1,000 for each count or separate offense, except as otherwise provided

313906

in this chapter, and may suspend or revoke a permit, a pari-mutuel license, or an occupational license for a violation under this chapter. All fines imposed and collected under this subsection must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

(11) The department ~~division~~ shall supervise and regulate the welfare of racing animals at pari-mutuel facilities.

(12) The department may ~~division shall have full authority and power to make,~~ adopt~~, amend, or repeal~~ rules relating to cardroom operations, to enforce and to carry out the provisions of s. 849.086, and to regulate the authorized cardroom activities in the state.

(13) The department may ~~division shall have the authority to~~ suspend a permitholder's permit or license, if such permitholder is operating a cardroom facility and such permitholder's cardroom license has been suspended or revoked pursuant to s. 849.086.

Section 13. Section 550.0351, Florida Statutes, is amended to read:

550.0351 Charity racing days.—

(1) The department ~~division~~ shall, upon the request of a permitholder, authorize each horseracing permitholder, dogracing permitholder, and jai alai permitholder up to five charity or scholarship days in addition to the regular racing days authorized by law.

(2) The proceeds of charity performances shall be paid to qualified beneficiaries selected by the permitholders from an authorized list of charities on file with the department ~~division~~. Eligible charities include any charity that provides

evidence of compliance with the provisions of chapter 496 and evidence of possession of a valid exemption from federal taxation issued by the Internal Revenue Service. In addition, the authorized list must include the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning, and Florida community colleges.

(3) The permitholder shall, within 120 days after the conclusion of its fiscal year, pay to the authorized charities the total of all profits derived from the operation of the charity day performances conducted. If charity days are operated on behalf of another permitholder pursuant to law, the permitholder entitled to distribute the proceeds shall distribute the proceeds to charity within 30 days after the actual receipt of the proceeds.

(4) The total of all profits derived from the conduct of a charity day performance must include all revenues derived from the conduct of that racing performance, including all state taxes that would otherwise be due to the state, except that the daily license fee as provided in s. 550.0951(1) and the breaks for the promotional trust funds as provided in s. 550.2625(3), (4), (5), (7), and (8) shall be paid to the department ~~division~~. All other revenues from the charity racing performance, including the commissions, breaks, and admissions and the revenues from parking, programs, and concessions, shall be included in the total of all profits.

(5) In determining profit, the permitholder may elect to distribute as proceeds only the amount equal to the state tax that would otherwise be paid to the state if the charity day

313906

were conducted as a regular or matinee performance.

(6)(a) The department ~~division~~ shall authorize one additional scholarship day for horseracing in addition to the regular racing days authorized by law and any additional days authorized by this section, to be conducted at all horse racetracks located in Hillsborough County. The permitholder shall conduct a full schedule of racing on the scholarship day.

(b) The funds derived from the operation of the additional scholarship day shall be allocated as provided in this section and paid to Pasco-Hernando Community College.

(c) When a charity or scholarship performance is conducted as a matinee performance, the department ~~division~~ may authorize the permitholder to conduct the evening performances of that operation day as a regular performance in addition to the regular operating days authorized by law.

(7) In addition to the charity days authorized by this section, any dogracing permitholder may allow its facility to be used for conducting "hound dog derbies" or "mutt derbies" on any day during each racing season by any charitable, civic, or nonprofit organization for the purpose of conducting "hound dog derbies" or "mutt derbies" if only dogs other than those usually used in dogracing (greyhounds) are permitted to race and if adults and minors are allowed to participate as dog owners or spectators. During these racing events, betting, gambling, and the sale or use of alcoholic beverages is prohibited.

(8) In addition to the eligible charities that meet the criteria set forth in this section, a jai alai permitholder is authorized to conduct two additional charity performances each fiscal year for a fund to benefit retired jai alai players. This

313906

performance shall be known as the "Retired Jai Alai Players Charity Day." The administration of this fund shall be determined by rule by the department ~~division~~.

Section 14. Section 550.054, Florida Statutes, is amended to read:

550.054 Application for permit to conduct pari-mutuel wagering.—

(1) Any person who possesses the qualifications prescribed in this chapter may apply to the department ~~division~~ for a permit to conduct pari-mutuel operations under this chapter. Applications for a pari-mutuel permit are exempt from the 90-day licensing requirement of s. 120.60. Within 120 days after receipt of a complete application, the department ~~division~~ shall grant or deny the permit. A completed application that is not acted upon within 120 days after receipt is deemed approved, and the department ~~division~~ shall grant the permit.

(2) Upon each application filed and approved, a permit shall be issued to the applicant setting forth the name of the permitholder, the location of the pari-mutuel facility, the type of pari-mutuel activity desired to be conducted, and a statement showing qualifications of the applicant to conduct pari-mutuel performances under this chapter; however, a permit is ineffectual to authorize any pari-mutuel performances until approved by a majority of the electors participating in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. In addition, an application may not be considered, nor may a permit be issued by the department ~~division~~ or be voted upon in any county, to conduct horseraces, harness horse races, or dograces

at a location within 100 miles of an existing pari-mutuel facility, or for jai alai within 50 miles of an existing pari-mutuel facility; this distance shall be measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.

(3) The department ~~division~~ shall require that each applicant submit an application setting forth:

(a) The full name of the applicant.

(b) If a corporation, the name of the state in which incorporated and the names and addresses of the officers, directors, and shareholders holding 5 percent or more equity or, if a business entity other than a corporation, the names and addresses of the principals, partners, or shareholders holding 5 percent or more equity.

(c) The names and addresses of the ultimate equitable owners for a corporation or other business entity, if different from those provided under paragraph (b), unless the securities of the corporation or entity are registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk; and if such corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act or if the securities of the corporation or entity are regularly traded on an established securities market in the United States.

(d) The exact location where the applicant will conduct pari-mutuel performances.

(e) Whether the pari-mutuel facility is owned or leased and, if leased, the name and residence of the fee owner or, if a corporation, the names and addresses of the directors and

313906

stockholders thereof. However, this chapter does not prevent a person from applying to the department ~~division~~ for a permit to conduct pari-mutuel operations, regardless of whether the pari-mutuel facility has been constructed or not, and having an election held in any county at the same time that elections are held for the ratification of any permit in that county.

(f) A statement of the assets and liabilities of the applicant.

(g) The names and addresses of any mortgagee of any pari-mutuel facility and any financial agreement between the parties. The department ~~division~~ may require the names and addresses of the officers and directors of the mortgagee, and of those stockholders who hold more than 10 percent of the stock of the mortgagee.

(h) A business plan for the first year of operation.

(i) For each individual listed in the application as an owner, partner, officer, or director, a complete set of fingerprints that has been taken by an authorized law enforcement officer. These sets of fingerprints must be submitted to the Federal Bureau of Investigation for processing. Applicants who are foreign nationals shall submit such documents as necessary to allow the department ~~division~~ to conduct criminal history records checks in the applicant's home country. The applicant must pay the cost of processing. The department ~~division~~ may charge a $2 handling fee for each set of fingerprint records.

(j) The type of pari-mutuel activity to be conducted and the desired period of operation.

(k) Other information the department ~~division~~ requires.

313906

(4) The department ~~division~~ shall require each applicant to deposit with the board of county commissioners of the county in which the election is to be held, a sufficient sum, in currency or by check certified by a bank licensed to do business in the state to pay the expenses of holding the election provided in s. 550.0651.

(5) Upon receiving an application and any amendments properly made thereto, the department ~~division~~ shall further investigate the matters contained in the application. If the applicant meets all requirements, conditions, and qualifications set forth in this chapter and the rules of the department ~~division~~, the department ~~division~~ shall grant the permit.

(6) After initial approval of the permit and the source of financing, the terms and parties of any subsequent refinancing must be disclosed by the applicant or the permitholder to the department ~~division~~.

(7) If the department ~~division~~ refuses to grant the permit, the money deposited with the board of county commissioners for holding the election must be refunded to the applicant. If the department ~~division~~ grants the permit applied for, the board of county commissioners shall order an election in the county to decide whether the permit will be approved, as provided in s. 550.0651.

(8)(a) The department ~~division~~ may charge the applicant for reasonable, anticipated costs incurred by the department ~~division~~ in determining the eligibility of any person or entity specified in s. 550.1815(1)(a) to hold any pari-mutuel permit, against such person or entity.

(b) The department ~~division~~ may, by rule, determine the

313906

manner of paying its anticipated costs associated with determination of eligibility and the procedure for filing applications for determination of eligibility.

(c) The department ~~division~~ shall furnish to the applicant an itemized statement of actual costs incurred during the investigation to determine eligibility.

(d) If unused funds remain at the conclusion of such investigation, they must be returned to the applicant within 60 days after the determination of eligibility has been made.

(e) If the actual costs of investigation exceed anticipated costs, the department ~~division~~ shall assess the applicant the amount necessary to recover all actual costs.

(9)(a) After a permit has been granted by the department ~~division~~ and has been ratified and approved by the majority of the electors participating in the election in the county designated in the permit, the department ~~division~~ shall grant to the lawful permitholder, subject to the conditions of this chapter, a license to conduct pari-mutuel operations under this chapter, and, except as provided in s. 550.5251, the department ~~division~~ shall fix annually the time, place, and number of days during which pari-mutuel operations may be conducted by the permitholder at the location fixed in the permit and ratified in the election. After the first license has been issued to the holder of a ratified permit for racing in any county, all subsequent annual applications for a license by that permitholder must be accompanied by proof, in such form as the department ~~division~~ requires, that the ratified permitholder still possesses all the qualifications prescribed by this chapter and that the permit has not been recalled at a later

313906

796 election held in the county.
797 (b) The department ~~division~~ may revoke or suspend any
798 permit or license issued under this chapter upon the willful
799 violation by the permitholder or licensee of any provision of
800 this chapter or of any rule adopted under this chapter. In lieu
801 of suspending or revoking a permit or license, the department
802 ~~division~~ may impose a civil penalty against the permitholder or
803 licensee for a violation of this chapter or any rule adopted by
804 the department ~~division~~. The penalty so imposed may not exceed
805 $1,000 for each count or separate offense. All penalties imposed
806 and collected must be deposited with the Chief Financial Officer
807 to the credit of the General Revenue Fund.
808 (10) If a permitholder has failed to complete construction
809 of at least 50 percent of the facilities necessary to conduct
810 pari-mutuel operations within 12 months after approval by the
811 voters of the permit, the department ~~division~~ shall revoke the
812 permit upon adequate notice to the permitholder. However, the
813 department ~~division~~, upon good cause shown by the permitholder,
814 may grant one extension of up to 12 months.
815 (11)(a) A permit granted under this chapter may not be
816 transferred or assigned except upon written approval by the
817 department ~~division~~ pursuant to s. 550.1815, except that the
818 holder of any permit that has been converted to a jai alai
819 permit may lease or build anywhere within the county in which
820 its permit is located.
821 (b) If a permit to conduct pari-mutuel wagering is held by
822 a corporation or business entity other than an individual, the
823 transfer of 10 percent or more of the stock or other evidence of
824 ownership or equity in the permitholder may not be made without

313906

the prior approval of the transferee by the department ~~division~~ pursuant to s. 550.1815.

(12) Changes in ownership or interest of a pari-mutuel permit of 5 percent or more of the stock or other evidence of ownership or equity in the permitholder must ~~shall~~ be approved by the department before ~~division prior to~~ such change, unless the owner is an existing owner of that permit who was previously approved by the department ~~division~~. Changes in ownership or interest of a pari-mutuel permit of less than 5 percent must ~~shall~~ be reported to the department ~~division~~ within 20 days of the change. The department ~~division~~ may then conduct an investigation to ensure that the permit is properly updated to show the change in ownership or interest.

(13)(a) Notwithstanding any provisions of this chapter, a ~~no~~ thoroughbred horse racing permit or license issued under this chapter may not ~~shall~~ be transferred, or reissued if ~~when~~ such reissuance is in the nature of a transfer so as to permit or authorize a licensee to change the location of a thoroughbred horse racetrack except upon proof in such form as the department ~~division~~ may prescribe that a referendum election has been held:

1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and that a majority of the electors voting on that question in such election voted in favor of the transfer of such license.

2. If the proposed new location is not within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and in the county where the licensee is already licensed to conduct the race

313906

meeting and that a majority of the electors voting on that question in each such election voted in favor of the transfer of such license.

(b) Each referendum held under ~~the provisions of~~ this subsection shall be held in accordance with the electoral procedures for ratification of permits, as provided in s. 550.0651. The expense of each such referendum shall be borne by the licensee requesting the transfer.

(14)(a) Any holder of a permit to conduct jai alai may apply to the department ~~division~~ to convert such permit to a permit to conduct greyhound racing in lieu of jai alai if:

1. Such permit is located in a county in which the department ~~division~~ has issued only two pari-mutuel permits pursuant to this section;

2. Such permit was not previously converted from any other class of permit; and

3. The holder of the permit has not conducted jai alai games during a period of 10 years immediately preceding his or her application for conversion under this subsection.

(b) The department ~~division~~, upon application from the holder of a jai alai permit meeting all conditions of this section, shall convert the permit and shall issue to the permitholder a permit to conduct greyhound racing. A permitholder of a permit converted under this section shall ~~be required to~~ apply for and conduct a full schedule of live racing each fiscal year to be eligible for any tax credit provided by this chapter. The holder of a permit converted pursuant to this subsection or any holder of a permit to conduct greyhound racing located in a county in which it is the only permit issued

313906

pursuant to this section who operates at a leased facility pursuant to s. 550.475 may move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that county, provided the move does not cross the county boundary and such location is approved under the zoning regulations of the county or municipality in which the permit is located, and upon such relocation may use the permit for the conduct of pari-mutuel wagering and the operation of a cardroom. The provisions of s. 550.6305(9)(d) and (f) ~~shall~~ apply to any permit converted under this subsection and ~~shall~~ continue to apply to any permit that ~~which~~ was previously included under and subject to such provisions before a conversion pursuant to this section occurred.

Section 15. Subsection (2) of section 550.0555, Florida Statutes, is amended to read:

550.0555 Greyhound dogracing permits; relocation within a county; conditions.—

(2) Any holder of a valid outstanding permit for greyhound dogracing in a county in which there is only one dogracing permit issued, as well as any holder of a valid outstanding permit for jai alai in a county where only one jai alai permit is issued, is authorized, without the necessity of an additional county referendum required under s. 550.0651, to move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that county, if ~~provided~~ the move does not cross the county boundary, ~~that~~ such relocation is approved under the zoning regulations of the county or municipality in

313906

which the permit is to be located as a planned development use, consistent with the comprehensive plan, and ~~that~~ such move is approved by the department after it is determined at a proceeding pursuant to chapter 120 in the county affected that the move is necessary to ensure the revenue-producing capability of the permittee without deteriorating the revenue-producing capability of any other pari-mutuel permittee within 50 miles; the distance shall be measured on a straight line from the nearest property line of one racing plant or jai alai fronton to the nearest property line of the other.

Section 16. Section 550.0651, Florida Statutes, is amended to read:

550.0651 Elections for ratification of permits.—

(1) The holder of any permit may have submitted to the electors of the county designated therein the question whether or not such permit will be ratified or rejected. Such questions shall be submitted to the electors for approval or rejection at a special election to be called for that purpose only. The board of county commissioners of the county designated, upon the presentation to such board at a regular or special meeting of a written application, accompanied by a certified copy of the permit granted by the <u>department</u> ~~division~~, and asking for an election in the county in which the application was made, shall order a special election in the county for the particular purpose of deciding whether such permit shall be approved and license issued and race meetings permitted in such county by such permittee and shall cause the clerk of such board to give notice of the special election by publishing the same once each week for 2 consecutive weeks in one or more newspapers of

313906

general circulation in the county. Each permit covering each track must be voted upon separately and in separate elections, and an election may not be called more often than once every 2 years for the ratification of any permit covering the same track.

(2) All elections ordered under this chapter must be held within 90 days and not less than 21 days after the time of presenting such application to the board of county commissioners, and the inspectors of election shall be appointed and qualified as in cases of general elections, and they shall count the votes cast and make due returns of same to the board of county commissioners without delay. The board of county commissioners shall canvass the returns, declare the results, and cause the same to be recorded as provided in the general law concerning elections so far as applicable.

(3) When a permit has been granted by the department ~~division~~ and no application to the board of county commissioners has been made by the permittee within 6 months after the granting of the permit, the permit becomes void. The department ~~division~~ shall cancel the permit without notice to the permitholder, and the board of county commissioners holding the deposit for the election shall refund the deposit to the permitholder upon being notified by the department ~~division~~ that the permit has become void and has been canceled.

(4) All electors duly registered and qualified to vote at the last preceding general election held in such county are qualified electors for such election, and in addition thereto the registration books for such county shall be opened on the 10th day (if the 10th day is a Sunday or a holiday, then on the

313906

next day not a Sunday or holiday) after such election is ordered and called and must remain open for a period of 10 days for additional registrations of persons qualified for registration but not already registered. Electors for such special election have the same qualifications for and prerequisites to voting in elections as under the general election laws.

(5) If at any such special election the majority of the electors voting on the question of ratification or rejection of any permit vote against such ratification, such permit is void. If a majority of the electors voting on the question of ratification or rejection of any permit vote for such ratification, such permit becomes effectual and the holder thereof may conduct racing upon complying with the other provisions of this chapter. The board of county commissioners shall immediately certify the results of the election to the department ~~division~~.

Section 17. Subsections (1) and (4) of section 550.0745, Florida Statutes, are amended to read:

550.0745 Conversion of pari-mutuel permit to summer jai alai permit.—

(1) The owner or operator of a pari-mutuel permit who is authorized by the department ~~division~~ to conduct pari-mutuel pools on exhibition sports in any county having five or more such pari-mutuel permits and whose mutuel play from the operation of such pari-mutuel pools for the 2 consecutive years next prior to filing an application under this section has had the smallest play or total pool within the county may apply to the department ~~division~~ to convert its permit to a permit to conduct a summer jai alai fronton in such county during the

313906

summer season commencing on May 1 and ending on November 30 of each year on such dates as may be selected by such permittee for the same number of days and performances as are allowed and granted to winter jai alai frontons within such county. If a permittee who is eligible under this section to convert a permit declines to convert, a new permit is hereby made available in that permittee's county to conduct summer jai alai games as provided by this section, notwithstanding mileage and permit ratification requirements. If a permittee converts a quarter horse permit pursuant to this section, nothing in this section prohibits the permittee from obtaining another quarter horse permit. Such permittee shall pay the same taxes as are fixed and required to be paid from the pari-mutuel pools of winter jai alai permittees and is bound by all of the rules and provisions of this chapter which apply to the operation of winter jai alai frontons. Such permittee shall only be permitted to operate a jai alai fronton after its application has been submitted to the department ~~division~~ and its license has been issued pursuant to the application. The license is renewable from year to year as provided by law.

(4) The provisions of this chapter which prohibit the location and operation of jai alai frontons within a specified distance from the location of another jai alai fronton or other permittee and which prohibit the department ~~division~~ from granting any permit at a location within a certain designated area do not apply to the provisions of this section and do not prevent the issuance of a license under this section.

Section 18. Section 550.0951, Florida Statutes, is amended to read:

313906

550.0951 Payment of daily license fee and taxes; penalties.—

(1)(a) DAILY LICENSE FEE.—Each person engaged in the business of conducting race meetings or jai alai games under this chapter, hereinafter referred to as the "permitholder," "licensee," or "permittee," shall pay to the department ~~division~~, for the use of the department ~~division~~, a daily license fee on each live or simulcast pari-mutuel event of $100 for each horserace and $80 for each dograce and $40 for each jai alai game conducted at a racetrack or fronton licensed under this chapter. In addition to the tax exemption specified in s. 550.09514(1) of $360,000 or $500,000 per greyhound permitholder per state fiscal year, each greyhound permitholder shall receive in the current state fiscal year a tax credit equal to the number of live greyhound races conducted in the previous state fiscal year times the daily license fee specified for each dograce in this subsection applicable for the previous state fiscal year. This tax credit and the exemption in s. 550.09514(1) shall be applicable to any tax imposed by this chapter or the daily license fees imposed by this chapter except during any charity or scholarship performances conducted pursuant to s. 550.0351. Each permitholder shall pay daily license fees not to exceed $500 per day on any simulcast races or games on which such permitholder accepts wagers regardless of the number of out-of-state events taken or the number of out-of-state locations from which such events are taken. This license fee shall be deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

(b) Each permitholder that cannot utilize the full amount

313906

of the exemption of $360,000 or $500,000 provided in s. 550.09514(1) or the daily license fee credit provided in this section may, after notifying the department ~~division~~ in writing, elect once per state fiscal year on a form provided by the department ~~division~~ to transfer such exemption or credit or any portion thereof to any greyhound permitholder that ~~which~~ acts as a host track to such permitholder for the purpose of intertrack wagering. Once an election to transfer such exemption or credit is filed with the department ~~division~~, it may ~~shall~~ not be rescinded. The department ~~division~~ shall disapprove the transfer when the amount of the exemption or credit or portion thereof is unavailable to the transferring permitholder or when the permitholder who is entitled to transfer the exemption or credit or who is entitled to receive the exemption or credit owes taxes to the state pursuant to a deficiency letter or administrative complaint issued by the department ~~division~~. Upon approval of the transfer by the department ~~division~~, the transferred tax exemption or credit shall be effective for the first performance of the next payment period as specified in subsection (5). The exemption or credit transferred to such host track may be applied by such host track against any taxes imposed by this chapter or daily license fees imposed by this chapter. The greyhound permitholder host track to which such exemption or credit is transferred shall reimburse such permitholder the exact monetary value of such transferred exemption or credit as actually applied against the taxes and daily license fees of the host track. The department ~~division~~ shall ensure that all transfers of exemption or credit are made in accordance with this subsection, and the department may ~~shall have the authority~~

~~to~~ adopt rules to ensure the implementation of this section.

(2) ADMISSION TAX.—

(a) An admission tax equal to 15 percent of the admission charge for entrance to the permitholder's facility and grandstand area, or 10 cents, whichever is greater, is imposed on each person attending a horserace, dograce, or jai alai game. The permitholder shall be responsible for collecting the admission tax.

(b) No admission tax under this chapter or chapter 212 shall be imposed on any free passes or complimentary cards issued to persons for which there is no cost to the person for admission to pari-mutuel events.

(c) A permitholder may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the racetrack, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other permitholders for the use of their officers and officials. The permitholder shall file with the department ~~division~~ a list of all persons to whom tax-free passes are issued under this paragraph.

(3) TAX ON HANDLE.—Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as "handle," on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.

(a) The tax on handle for quarter horse racing is 1.0

percent of the handle.

(b)1. The tax on handle for dogracing is 5.5 percent of the handle, except that for live charity performances held pursuant to s. 550.0351, and for intertrack wagering on such charity performances at a guest greyhound track within the market area of the host, the tax is 7.6 percent of the handle.

2. The tax on handle for jai alai is 7.1 percent of the handle.

(c)1. The tax on handle for intertrack wagering is 2.0 percent of the handle if the host track is a horse track, 3.3 percent if the host track is a harness track, 5.5 percent if the host track is a dog track, and 7.1 percent if the host track is a jai alai fronton. The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders or if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet. The tax on handle for intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces is 2.4 percent of the handle and 1.5 percent of the handle for intertrack wagering on rebroadcasts of simulcast harness horseraces. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

2. The tax on handle for intertrack wagers accepted by any dog track located in an area of the state in which there are only three permitholders, all of which are greyhound permitholders, located in three contiguous counties, from any greyhound permitholder also located within such area or any dog track or jai alai fronton located as specified in s. 550.615(6) or (9), on races or games received from the same class of

313906

permitholder located within the same market area is 3.9 percent if the host facility is a greyhound permitholder and, if the host facility is a jai alai permitholder, the rate shall be 6.1 percent except that it shall be 2.3 percent on handle at such time as the total tax on intertrack handle paid to the department ~~division~~ by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the department ~~division~~ by the permitholder during the 1992-1993 state fiscal year.

(d) Notwithstanding any other provision of this chapter, in order to protect the Florida jai alai industry, ~~effective July 1, 2000,~~ a jai alai permitholder may not be taxed on live handle at a rate higher than 2 percent.

(4) BREAKS TAX.—~~Effective October 1, 1996,~~ Each permitholder conducting jai alai performances shall pay a tax equal to the breaks. The "breaks" represents that portion of each pari-mutuel pool which is not redistributed to the contributors or withheld by the permitholder as commission.

(5) PAYMENT AND DISPOSITION OF FEES AND TAXES.—Payments imposed by this section shall be paid to the department ~~division~~. The department ~~division~~ shall deposit these sums with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund, hereby established. The permitholder shall remit to the department ~~division~~ payment for the daily license fee, the admission tax, the tax on handle, and the breaks tax. Such payments shall be remitted by 3 p.m. Wednesday of each week for taxes imposed and collected for the preceding week ending on Sunday. Beginning on July 1, 2012, such payments shall be remitted by 3 p.m. on the 5th day of each calendar month for

313906

taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments shall be remitted by 3 p.m. the first Monday following the weekend. Permitholders shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments shall be accompanied by a report under oath showing the total of all admissions, the pari-mutuel wagering activities for the preceding calendar month, and such other information as may be prescribed by the department ~~division~~.

(6) PENALTIES.—

(a) The failure of any permitholder to make payments as prescribed in subsection (5) is a violation of this section, and the permitholder may be subjected by the department ~~division~~ to a civil penalty of up to $1,000 for each day the tax payment is not remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a permitholder fails to pay penalties imposed by order of the department ~~division~~ under this subsection, the department ~~division~~ may suspend or revoke the license of the permitholder, cancel the permit of the permitholder, or deny issuance of any further license or permit to the permitholder.

(b) In addition to the civil penalty prescribed in paragraph (a), any willful or wanton failure by any permitholder to make payments of the daily license fee, admission tax, tax on handle, or breaks tax constitutes sufficient grounds for the department ~~division~~ to suspend or revoke the license of the permitholder, to cancel the permit of the permitholder, or to deny issuance of any further license or permit to the

313906

permitholder.

Section 19. Subsections (2) and (3) of section 550.09511, Florida Statutes, are amended to read:

550.09511 Jai alai taxes; abandoned interest in a permit for nonpayment of taxes.—

(2) Notwithstanding the provisions of s. 550.0951(3)(b), wagering on live jai alai performances shall be subject to the following taxes:

(a)1. The tax on handle per performance for live jai alai performances is 4.25 percent of handle per performance. However, when the live handle of a permitholder during the preceding state fiscal year was less than $15 million, the tax shall be paid on the handle in excess of $30,000 per performance per day.

2. The tax rate shall be applicable only until the requirements of paragraph (b) are met.

(b) At such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the department ~~division~~ by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in fiscal year 1991-1992, the permitholder shall pay tax on handle for live jai alai performances at a rate of 2.55 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering in fiscal year 1991-1992 shall include any admissions tax, tax on handle, surtaxes on handle, and daily license fees.

(c) If no tax on handle for live jai alai performances were paid to the department ~~division~~ by a jai alai permitholder

313906

during the 1991-1992 state fiscal year, then at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the department ~~division~~ by a permitholder during the current state fiscal year exceeds the total state tax revenues from wagering on live jai alai performances paid or due by the permitholder in the last state fiscal year in which the permitholder conducted a full schedule of live games, the permitholder shall pay tax on handle for live jai alai performances at a rate of 3.3 percent of the handle per performance for the remainder of the current state fiscal year. For purposes of this section, total state tax revenues on live jai alai wagering shall include any admissions tax, tax on handle, surtaxes on handle, and daily license fees. ~~This paragraph shall take effect July 1, 1993.~~

(d) A permitholder who obtains a new permit issued by the department ~~division~~ subsequent to the 1991-1992 state fiscal year and a permitholder whose permit has been converted to a jai alai permit under the provisions of this chapter, shall, at such time as the total of admissions tax, daily license fee, and tax on handle for live jai alai performances paid to the department ~~division~~ by the permitholder during the current state fiscal year exceeds the average total state tax revenues from wagering on live jai alai performances for the first 3 consecutive jai alai seasons paid to or due the department ~~division~~ by the permitholder and during which the permitholder conducted a full schedule of live games, pay tax on handle for live jai alai performances at a rate of 3.3 percent of the handle per performance for the remainder of the current state fiscal year.

(e) The payment of taxes pursuant to paragraphs (b), (c),

313906

and (d) shall be calculated and commence beginning the day in which the permitholder is first entitled to the reduced rate specified in this section and the report of taxes required by s. 550.0951(5) is submitted to the department ~~division~~.

(f) A jai alai permitholder paying taxes under this section shall retain the breaks and pay an amount equal to the breaks as special prize awards, which shall be in addition to the regular contracted prize money paid to jai alai players at the permitholder's facility. Payment of the special prize money shall be made during the permitholder's current meet.

(g) For purposes of this section, "handle" has ~~shall have~~ the same meaning as in s. 550.0951, and does ~~shall~~ not include handle from intertrack wagering.

(3)(a) Notwithstanding the provisions of subsection (2) and s. 550.0951(3)(c)1., any jai alai permitholder that ~~which~~ is restricted under Florida law from operating live performances on a year-round basis is entitled to conduct wagering on live performances at a tax rate of 3.85 percent of live handle. Such permitholder is also entitled to conduct intertrack wagering as a host permitholder on live jai alai games at its fronton at a tax rate of 3.3 percent of handle at such time as the total tax on intertrack handle paid to the department ~~division~~ by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the department ~~division~~ by the permitholder during the 1992-1993 state fiscal year.

(b) The payment of taxes pursuant to paragraph (a) shall be calculated and commence beginning the day in which the permitholder is first entitled to the reduced rate specified in this subsection.

313906

Section 20. Section 550.09512, Florida Statutes, is amended to read:

550.09512 Harness horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(1) Pari-mutuel wagering at harness horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Harness horse permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack that ~~which~~ is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the harness horse industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between harness horse permitholders based upon their ability to operate under such regulation and tax system.

(2)(a) The tax on handle for live harness horse performances is 0.5 percent of handle per performance.

(b) For purposes of this section, the term "handle" has ~~shall have~~ the same meaning as in s. 550.0951, and does ~~shall~~ not include handle from intertrack wagering.

(3)(a) The permit of a harness horse permitholder who does not pay tax on handle for live harness horse performances for a full schedule of live races during any 2 consecutive state fiscal years shall be void and shall escheat to and become the property of the state unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to

313906

control. Financial hardship to the permitholder does ~~shall~~ not, in and of itself, constitute just cause for failure to operate and pay tax on handle.

(b) In order to maximize the tax revenues to the state, the department ~~division~~ shall reissue an escheated harness horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit do ~~shall~~ not apply to the reissuance of an escheated harness horse permit. As specified in the application and upon approval by the department ~~division~~ of an application for the permit, the new permitholder is ~~shall be~~ authorized to operate a harness horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.

(4) If ~~In the event that~~ a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be ~~null and~~ void and that the provisions of s. 550.0951 ~~shall~~ apply to all harness horse permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

Section 21. Subsection (2) of section 550.09514, Florida Statutes, is amended to read:

550.09514 Greyhound dogracing taxes; purse requirements.—

(2)(a) ~~The division shall determine for each greyhound permitholder the annual purse percentage rate of live handle for the state fiscal year 1993-1994 by dividing total purses paid on live handle by the permitholder, exclusive of payments made from outside sources, during the 1993-1994 state fiscal year by the permitholder's live handle for the 1993-1994 state fiscal year.~~ Each permitholder shall pay as purses for live races conducted during its current race meet at least the same ratio of purses paid on live handle excluding payments from outside sources divided by the permitholder's live handle as it paid during the ~~a percentage of its live handle not less than the percentage determined under this paragraph, exclusive of payments made by outside sources, for its~~ 1993-1994 state fiscal year, as determined by the department.

(b) Except as otherwise set forth herein, in addition to the minimum purse percentage required by paragraph (a), each permitholder shall pay as purses an annual amount equal to 75 percent of the daily license fees paid by each permitholder for the 1994-1995 fiscal year. This purse supplement shall be disbursed weekly during the permitholder's race meet in an amount determined by dividing the annual purse supplement by the number of performances approved for the permitholder pursuant to its annual license and multiplying that amount by the number of performances conducted each week. For the greyhound permitholders in the county where there are two greyhound permitholders located as specified in s. 550.615(6), such permitholders shall pay in the aggregate an amount equal to 75 percent of the daily license fees paid by such permitholders for the 1994-1995 fiscal year. These permitholders shall be jointly

313906

and severally liable for such purse payments. The additional purses provided by this paragraph must be used exclusively for purses other than stakes. The department ~~division~~ shall conduct audits necessary to ensure compliance with this section.

(c)1. Each greyhound permitholder when conducting at least three live performances during any week shall pay purses in that week on wagers it accepts as a guest track on intertrack and simulcast greyhound races at the same rate as it pays on live races. Each greyhound permitholder when conducting at least three live performances during any week shall pay purses in that week, at the same rate as it pays on live races, on wagers accepted on greyhound races at a guest track that ~~which~~ is not conducting live racing and is located within the same market area as the greyhound permitholder conducting at least three live performances during any week.

2. Each host greyhound permitholder shall pay purses on its simulcast and intertrack broadcasts of greyhound races to guest facilities that are located outside its market area in an amount equal to one quarter of an amount determined by subtracting the transmission costs of sending the simulcast or intertrack broadcasts from an amount determined by adding the fees received for greyhound simulcast races plus 3 percent of the greyhound intertrack handle at guest facilities that are located outside the market area of the host and that paid contractual fees to the host for such broadcasts of greyhound races.

~~(d) The division shall require sufficient documentation from each greyhound permitholder regarding purses paid on live racing to assure that the annual purse percentage rates paid by each permitholder on the live races are not reduced below those~~

313906

~~paid during the 1993-1994 state fiscal year. The division shall require sufficient documentation from each greyhound permitholder to assure that the purses paid by each permitholder on the greyhound intertrack and simulcast broadcasts are in compliance with the requirements of paragraph (c).~~

(d) ~~(c)~~ In addition to the purse requirements of paragraphs (a)-(c), each greyhound permitholder shall pay as purses an amount equal to one-third of the amount of the tax reduction on live and simulcast handle applicable to such permitholder as a result of the reductions in tax rates on handle made by chapter 2000-354, Laws of Florida, in ~~provided by this act through the amendments to~~ s. 550.0951(3). With respect to intertrack wagering if ~~when~~ the host and guest tracks are greyhound permitholders not within the same market area, an amount equal to the tax reduction applicable to the guest track handle as a result of the reduction in tax rate on handle made by chapter 2000-354, Laws of Florida, in ~~provided by this act through the amendment to~~ s. 550.0951(3) shall be distributed to the guest track, one-third of which amount shall be paid as purses at the guest track. However, if the guest track is a greyhound permitholder within the market area of the host or if the guest track is not a greyhound permitholder, an amount equal to such tax reduction applicable to the guest track handle shall be retained by the host track, one-third of which amount shall be paid as purses at the host track. These purse funds shall be disbursed in the week received if the permitholder conducts at least one live performance during that week. If the permitholder does not conduct at least one live performance during the week in which the purse funds are received, the purse funds shall be

313906

disbursed weekly during the permitholder's next race meet in an amount determined by dividing the purse amount by the number of performances approved for the permitholder pursuant to its annual license, and multiplying that amount by the number of performances conducted each week. The department ~~division~~ shall conduct audits necessary to ensure compliance with this paragraph.

(e) ~~(f)~~ Each greyhound permitholder shall, during the permitholder's race meet, supply kennel operators and the department ~~Division of Pari-Mutuel Wagering~~ with a weekly report showing purses paid on live greyhound races and all greyhound intertrack and simulcast broadcasts, including both as a guest and a host together with the handle or commission calculations on which such purses were paid and the transmission costs of sending the simulcast or intertrack broadcasts, so that the kennel operators may determine statutory and contractual compliance.

(f) ~~(g)~~ Each greyhound permitholder shall make direct payment of purses to the greyhound owners who have filed with such permitholder appropriate federal taxpayer identification information based on the percentage amount agreed upon between the kennel operator and the greyhound owner.

(g) ~~(h)~~ At the request of a majority of kennel operators under contract with a greyhound permitholder, the permitholder shall make deductions from purses paid to each kennel operator electing such deduction and shall make a direct payment of such deductions to the local association of greyhound kennel operators formed by a majority of kennel operators under contract with the permitholder. The amount of the deduction

313906

shall be at least 1 percent of purses, as determined by the local association of greyhound kennel operators. No deductions may be taken pursuant to this paragraph without a kennel operator's specific approval ~~before or after the effective date of this act~~.

Section 22. Subsection (3) of section 550.09515, Florida Statutes, is amended to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(3)(a) The permit of a thoroughbred horse permitholder who does not pay tax on handle for live thoroughbred horse performances for a full schedule of live races during any 2 consecutive state fiscal years shall be void and shall escheat to and become the property of the state unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder <u>does</u> ~~shall~~ not, in and of itself, constitute just cause for failure to operate and pay tax on handle.

(b) In order to maximize the tax revenues to the state, the <u>department</u> ~~division~~ shall reissue an escheated thoroughbred horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit <u>do</u> ~~shall~~ not apply to the reissuance of an escheated thoroughbred horse permit. As specified in the application and upon approval by the <u>department</u> ~~division~~ of an application for the permit, the new permitholder shall be authorized to operate a thoroughbred horse facility

313906

anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.

Section 23. Section 550.105, Florida Statutes, is amended to read:

550.105 Occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.—

(1) Each person connected with a racetrack or jai alai fronton, as specified in paragraph (2)(a), shall purchase from the department ~~division~~ an occupational license. All moneys collected pursuant to this section each fiscal year shall be deposited into the Pari-mutuel Wagering Trust Fund. Pursuant to the rules adopted by the department ~~division~~, an occupational license may be valid for a period of up to 3 years for a fee that does not exceed the full occupational license fee for each of the years for which the license is purchased. The occupational license shall be valid during its specified term at any pari-mutuel facility.

(2)(a) The following licenses shall be issued to persons or entities with access to the backside, racing animals, jai alai players' room, jockeys' room, drivers' room, totalisator room, the mutuels, or money room, or to persons who, by virtue of the position they hold, might be granted access to these areas or to any other person or entity in one of the following categories and with fees not to exceed the following amounts for any 12-month period:

1. Business licenses: any business such as a vendor, contractual concessionaire, contract kennel, business owning

racing animals, trust or estate, totalisator company, stable name, or other fictitious name: $50.

2. Professional occupational licenses: professional persons with access to the backside of a racetrack or players' quarters in jai alai such as trainers, officials, veterinarians, doctors, nurses, emergency medical technicians ~~EMT's~~, jockeys and apprentices, drivers, jai alai players, owners, trustees, or any management or officer or director or shareholder or any other professional-level person who might have access to the jockeys' room, the drivers' room, the backside, racing animals, kennel compound, or managers or supervisors requiring access to mutuels machines, the money room, or totalisator equipment: $40.

3. General occupational licenses: general employees with access to the jockeys' room, the drivers' room, racing animals, the backside of a racetrack or players' quarters in jai alai, such as grooms, kennel helpers, leadouts, pelota makers, cesta makers, or ball boys, or a practitioner of any other occupation who would have access to the animals, the backside, or the kennel compound, or who would provide the security or maintenance of these areas, or mutuel employees, totalisator employees, money-room employees, or any employee with access to mutuels machines, the money room, or totalisator equipment or who would provide the security or maintenance of these areas: $10.

The individuals and entities that are licensed under this paragraph require heightened state scrutiny, including the submission by the individual licensees or persons associated with the entities described in this chapter of fingerprints for

313906

a Federal Bureau of Investigation criminal records check.

(b) The department ~~division~~ shall adopt rules pertaining to pari-mutuel occupational licenses, licensing periods, and renewal cycles.

(3) Certified public accountants and attorneys licensed to practice in this state are ~~shall~~ not ~~be~~ required to hold an occupational license under this section while providing accounting or legal services to a permitholder if the certified public accountant's or attorney's primary place of employment is not on the permitholder premises.

(4) It is unlawful to take part in or officiate in any way at any pari-mutuel facility without first having secured a license and paid the occupational license fee.

(5)(a) The department ~~division~~ may:

1. Deny a license to or revoke, suspend, or place conditions upon or restrictions on a license of any person who has been refused a license by any other state racing commission or racing authority;

2. Deny, suspend, or place conditions on a license of any person who is under suspension or has unpaid fines in another jurisdiction;

if the state racing commission or racing authority of such other state or jurisdiction extends to the department ~~division~~ reciprocal courtesy to maintain the disciplinary control.

(b) The department ~~division~~ may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for or holder thereof has violated the provisions of this chapter or the rules of the department ~~division~~ governing the conduct of

persons connected with racetracks and frontons. In addition, the department ~~division~~ may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for such license has been convicted in this state, in any other state, or under the laws of the United States of a capital felony, a felony, or an offense in any other state which would be a felony under the laws of this state involving arson; trafficking in, conspiracy to traffic in, smuggling, importing, conspiracy to smuggle or import, or delivery, sale, or distribution of a controlled substance; or a crime involving a lack of good moral character, or has had a pari-mutuel license revoked by this state or any other jurisdiction for an offense related to pari-mutuel wagering.

(c) The department ~~division~~ may deny, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor is related to gambling or bookmaking, as contemplated in s. 849.25, or involves cruelty to animals. If the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions excluding offenders may be waived by the director of the department ~~division~~.

(d) For purposes of this subsection, the term "convicted" means 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. However, the term

313906

"conviction" may ~~shall~~ not be applied to a crime committed prior to the effective date of this subsection in a manner that would invalidate any occupational license issued prior to the effective date of this subsection or subsequent renewal for any person holding such a license.

(e) If an occupational license will expire by department ~~division~~ rule during the period of a suspension the department ~~division~~ intends to impose, or if a license would have expired but for pending administrative charges and the occupational licensee is found to be in violation of any of the charges, the license may be revoked and a time period of license ineligibility may be declared. The department ~~division~~ may bring administrative charges against any person not holding a current license for violations of statutes or rules which occurred while such person held an occupational license, and the department ~~division~~ may declare such person ineligible to hold a license for a period of time. The department ~~division~~ may impose a civil fine of up to $1,000 for each violation of the rules of the department ~~division~~ in addition to or in lieu of any other penalty provided for in this section. In addition to any other penalty provided by law, the department ~~division~~ may exclude from all pari-mutuel facilities in this state, for a period not to exceed the period of suspension, revocation, or ineligibility, any person whose occupational license application has been denied by the department ~~division~~, who has been declared ineligible to hold an occupational license, or whose occupational license has been suspended or revoked by the department ~~division~~.

(f) The department ~~division~~ may cancel any occupational

license that has been voluntarily relinquished by the licensee.

(6) In order to promote the orderly presentation of pari-mutuel meets authorized in this chapter, the department ~~division~~ may issue a temporary occupational license. The department ~~division~~ shall adopt rules to implement this subsection. However, no temporary occupational license shall be valid for more than 90 days, and no more than one temporary license may be issued for any person in any year.

(7) The department ~~division~~ may deny, revoke, or suspend any occupational license if the applicant therefor or holder thereof accumulates unpaid obligations or defaults in obligations, or issues drafts or checks that are dishonored or for which payment is refused without reasonable cause, if such unpaid obligations, defaults, or dishonored or refused drafts or checks directly relate to the sport of jai alai or racing being conducted at a pari-mutuel facility within this state.

(8) The department ~~division~~ may fine, or suspend or revoke, or place conditions upon, the license of any licensee who under oath knowingly provides false information regarding an investigation by the department ~~division~~.

(9) The tax imposed by this section is in lieu of all license, excise, or occupational taxes to the state or any county, municipality, or other political subdivision, except that, if a race meeting or game is held or conducted in a municipality, the municipality may assess and collect an additional tax against any person conducting live racing or games within its corporate limits, which tax may not exceed $150 per day for horseracing or $50 per day for dogracing or jai alai. Except as provided in this chapter, a municipality may not

313906

assess or collect any additional excise or revenue tax against any person conducting race meetings within the corporate limits of the municipality or against any patron of any such person.

(10)(a) Upon application for an occupational license, the department ~~division~~ may require the applicant's full legal name; any nickname, alias, or maiden name for the applicant; name of the applicant's spouse; the applicant's date of birth, residence address, mailing address, residence address and business phone number, and social security number; disclosure of any felony or any conviction involving bookmaking, illegal gambling, or cruelty to animals; disclosure of any past or present enforcement or actions by any racing or gaming agency against the applicant; and any information the department ~~division~~ determines is necessary to establish the identity of the applicant or to establish that the applicant is of good moral character. Fingerprints shall be taken in a manner approved by the department ~~division~~ and then shall be submitted to the Federal Bureau of Investigation, or to the association of state officials regulating pari-mutuel wagering pursuant to the Federal Pari-mutuel Licensing Simplification Act of 1988. The cost of processing fingerprints shall be borne by the applicant and paid to the association of state officials regulating pari-mutuel wagering from the trust fund to which the processing fees are deposited. The department ~~division~~, by rule, may require additional information from licensees which is reasonably necessary to regulate the industry. The department ~~division~~ may, by rule, exempt certain occupations or groups of persons from the fingerprinting requirements.

(b) All fingerprints required by this section which ~~that~~

313906

are submitted to the Department of Law Enforcement shall be retained by the Department of Law Enforcement and entered into the statewide automated fingerprint identification system as authorized by s. 943.05(2)(b) and shall be available for all purposes and uses authorized for arrest fingerprint cards entered into the statewide automated fingerprint identification system pursuant to s. 943.051.

(c) The Department of Law Enforcement shall search all arrest fingerprints received pursuant to s. 943.051 against the fingerprints retained in the statewide automated fingerprint identification system under paragraph (b). Any arrest record that is identified with the retained fingerprints of a person subject to the criminal history screening requirements of this section shall be reported to the department ~~division~~. Each licensee shall pay a fee to the department ~~division~~n for the cost of retention of the fingerprints and the ongoing searches under this paragraph. The department ~~division~~ shall forward the payment to the Department of Law Enforcement. The amount of the fee to be imposed for performing these searches and the procedures for the retention of licensee fingerprints shall be as established by rule of the Department of Law Enforcement. The department ~~division~~ shall inform the Department of Law Enforcement of any change in the license status of licensees whose fingerprints are retained under paragraph (b).

(d) The department ~~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 following issuance of a license. If the fingerprints of a person who is licensed have

313906

not been retained by the Department of Law Enforcement, the person must file a complete set of fingerprints as provided in paragraph (a). The department ~~division~~ shall collect the fees for the cost of the national criminal history records check under this paragraph and forward the payment to the Department of Law Enforcement. The cost of processing fingerprints and conducting a criminal history records check under this paragraph for a general occupational license shall be borne by the applicant. The cost of processing fingerprints and conducting a criminal history records check under this paragraph for a business or professional occupational license shall be borne by the person being checked. The Department of Law Enforcement may send an invoice to the department ~~division~~ for the fingerprints submitted each month. Under penalty of perjury, each person who is licensed or who is fingerprinted as required by this section must agree to inform the department ~~division~~ within 48 hours if he or she is convicted of or has entered a plea of guilty or nolo contendere to any disqualifying offense, regardless of adjudication.

Section 24. Subsection (1) of section 550.1155, Florida Statutes, is amended to read:

550.1155 Authority of stewards, judges, panel of judges, or player's manager to impose penalties against occupational licensees; disposition of funds collected.—

(1) The stewards at a horse racetrack; the judges at a dog track; or the judges, a panel of judges, or a player's manager at a jai alai fronton may impose a civil penalty against any occupational licensee for violation of the pari-mutuel laws or any rule adopted by the department ~~division~~. The penalty may not

exceed $1,000 for each count or separate offense or exceed 60 days of suspension for each count or separate offense.

Section 25. Subsections (2) and (3) of section 550.125, Florida Statutes, are amended to read:

550.125 Uniform reporting system; bond requirement.—

(2)(a) Each permitholder that conducts race meetings or jai alai exhibitions under this chapter shall keep records that clearly show the total number of admissions and the total amount of money contributed to each pari-mutuel pool on each race or exhibition separately and the amount of money received daily from admission fees and, within 120 days after the end of its fiscal year, shall submit to the division a complete annual report of its accounts, audited by a certified public accountant licensed to practice in the state.

(b) The department ~~division~~ shall adopt rules specifying the form and content of such reports, including, but not limited to, requirements for a statement of assets and liabilities, operating revenues and expenses, and net worth, which statement must be audited by a certified public accountant licensed to practice in this state, and any supporting informational schedule found necessary by the department ~~division~~ to verify the foregoing financial statement, which informational schedule must be attested to under oath by the permitholder or an officer of record, to permit the division to:

1. Assess the profitability and financial soundness of permitholders, both individually and as an industry;

2. Plan and recommend measures necessary to preserve and protect the pari-mutuel revenues of the state; and

3. Completely identify the holdings, transactions, and

313906

investments of permitholders with other business entities.

(c) The Auditor General and the Office of Program Policy Analysis and Government Accountability may, pursuant to their own authority or at the direction of the Legislative Auditing Committee, audit, examine, and check the books and records of any permitholder. These audit reports shall become part of, and be maintained in, the division files.

(d) The department ~~division~~ shall annually review the books and records of each permitholder and verify that the breaks and unclaimed ticket payments made by each permitholder are true and correct.

(3)(a) Each permitholder to which a license is granted under this chapter, at its own cost and expense, must, before the license is delivered, give a bond in the penal sum of $50,000 payable to the Governor of the state and her or his successors in office, with a surety or sureties to be approved by the department ~~division~~ and the Chief Financial Officer, conditioned to faithfully make the payments to the Chief Financial Officer in her or his capacity as treasurer of the department ~~division~~; to keep its books and records and make reports as provided; and to conduct its racing in conformity with this chapter. When the greatest amount of tax owed during any month in the prior state fiscal year, in which a full schedule of live racing was conducted, is less than $50,000, the department ~~division~~ may assess a bond in a sum less than $50,000. The department ~~division~~ may review the bond for adequacy and require adjustments each fiscal year. The division may ~~has the authority to~~ adopt rules to implement this paragraph and establish guidelines for such bonds.

(b) The provisions of this chapter concerning bonding do not apply to nonwagering licenses issued pursuant to s. 550.505.

Section 26. Subsections (1) and (3) of section 550.135, Florida Statutes, are amended to read:

550.135 Division of moneys derived under this law.—All moneys that are deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund shall be distributed as follows:

(1) The daily license fee revenues collected pursuant to s. 550.0951(1) shall be used to fund the operating cost of the department ~~division and to provide a proportionate share of the operation of the office of the secretary and the Division of Administration of the Department of Business and Professional Regulation; however, other collections in the Pari-mutuel Wagering Trust Fund may also be used to fund the operation of the division in accordance with authorized appropriations~~.

(3) The slot machine license fee, the slot machine occupational license fee, and the compulsive or addictive gambling prevention program fee collected pursuant to ss. 551.106, 551.107(2)(a)1., and 551.118 shall be used to fund the direct and indirect operating expenses of the department's ~~division's~~ slot machine regulation operations and to provide funding for relevant enforcement activities in accordance with authorized appropriations. Funds deposited into the Pari-mutuel Wagering Trust Fund pursuant to ss. 551.106, 551.107(2)(a)1., and 551.118 shall be reserved in the trust fund for slot machine regulation operations. On June 30, any unappropriated funds in excess of those necessary for incurred obligations and subsequent year cash flow for slot machine regulation operations

313906

shall be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

Section 27. Subsection (1) of section 550.155, Florida Statutes, is amended to read:

550.155 Pari-mutuel pool within track enclosure; takeouts; breaks; penalty for purchasing part of a pari-mutuel pool for or through another in specified circumstances.—

(1) Wagering on the results of a horserace, dograce, or on the scores or points of a jai alai game and the sale of tickets or other evidences showing an interest in or a contribution to a pari-mutuel pool are allowed within the enclosure of any pari-mutuel facility licensed and conducted under this chapter but are not allowed elsewhere in this state, must be supervised by the department ~~division~~, and are subject to such reasonable rules that the department ~~division~~ prescribes.

Section 28. Subsection (2) and paragraph (a) of subsection (3) of section 550.1648, Florida Statutes, are amended to read:

550.1648 Greyhound adoptions.—

(2) In addition to the charity days authorized under s. 550.0351, a greyhound permitholder may fund the greyhound adoption program by holding a charity racing day designated as "Greyhound Adopt-A-Pet Day." All profits derived from the operation of the charity day must be placed into a fund used to support activities at the racing facility which promote the adoption of greyhounds. The department ~~division~~ may adopt rules for administering the fund. Proceeds from the charity day authorized in this subsection may not be used as a source of funds for the purposes set forth in s. 550.1647.

(3)(a) Upon a violation of this section by a permitholder

313906

or licensee, the department ~~division~~ may impose a penalty as provided in s. 550.0251(10) and require the permitholder to take corrective action.

Section 29. Section 550.175, Florida Statutes, is amended to read:

550.175 Petition for election to revoke permit.—Upon petition of 20 percent of the qualified electors of any county wherein any racing has been licensed and conducted under this chapter, the county commissioners of such county shall provide for the submission to the electors of such county at the then next succeeding general election the question of whether any permit or permits theretofore granted shall be continued or revoked, and if a majority of the electors voting on such question in such election vote to cancel or recall the permit theretofore given, the department ~~division~~ may not thereafter grant any license on the permit so recalled. Every signature upon every recall petition must be signed in the presence of the clerk of the board of county commissioners at the office of the clerk of the circuit court of the county, and the petitioner must present at the time of such signing her or his registration receipt showing the petitioner's qualification as an elector of the county at the time of the signing of the petition. Not more than one permit may be included in any one petition; and, in all elections in which the recall of more than one permit is voted on, the voters shall be given an opportunity to vote for or against the recall of each permit separately. ~~Nothing in~~ This chapter does not ~~shall be construed to~~ prevent the holding of later referendum or recall elections.

Section 30. Section 550.1815, Florida Statutes, is amended

313906

to read:

550.1815 Certain persons prohibited from holding racing or jai alai permits; suspension and revocation.—

(1) A corporation, general or limited partnership, sole proprietorship, business trust, joint venture, or unincorporated association, or other business entity may not hold any horseracing or dogracing permit or jai alai fronton permit in this state if any one of the persons or entities specified in paragraph (a) has been determined by the department ~~division~~ not to be of good moral character or has been convicted of any offense specified in paragraph (b).

(a)1. The permitholder;

2. An employee of the permitholder;

3. The sole proprietor of the permitholder;

4. A corporate officer or director of the permitholder;

5. A general partner of the permitholder;

6. A trustee of the permitholder;

7. A member of an unincorporated association permitholder;

8. A joint venturer of the permitholder;

9. The owner of more than 5 percent of any equity interest in the permitholder, whether as a common shareholder, general or limited partner, voting trustee, or trust beneficiary; or

10. An owner of any interest in the permit or permitholder, including any immediate family member of the owner, or holder of any debt, mortgage, contract, or concession from the permitholder, who by virtue thereof is able to control the business of the permitholder.

(b)1. A felony in this state;

2. Any felony in any other state which would be a felony if

313906

committed in this state under the laws of this state;

3. Any felony under the laws of the United States;

4. A felony under the laws of another state if related to gambling which would be a felony under the laws of this state if committed in this state; or

5. Bookmaking as defined in s. 849.25.

(2)(a) If the applicant for permit as specified under subsection (1) or a permitholder as specified in paragraph (1)(a) has received a full pardon or a restoration of civil rights with respect to the conviction specified in paragraph (1)(b), the conviction does not constitute an absolute bar to the issuance or renewal of a permit or a ground for the revocation or suspension of a permit.

(b) A corporation that has been convicted of a felony is entitled to apply for and receive a restoration of its civil rights in the same manner and on the same grounds as an individual.

(3) After notice and hearing, the department ~~division~~ shall refuse to issue or renew or shall suspend, as appropriate, any permit found in violation of subsection (1). The order shall become effective 120 days after service of the order upon the permitholder and shall be amended to constitute a final order of revocation unless the permitholder has, within that period of time, either caused the divestiture, or agreed with the convicted person upon a complete immediate divestiture, of her or his holding, or has petitioned the circuit court as provided in subsection (4) or, in the case of corporate officers or directors of the holder or employees of the holder, has terminated the relationship between the permitholder and those

313906

persons mentioned. The department ~~division~~ may, by order, extend the 120-day period for divestiture, upon good cause shown, to avoid interruption of any jai alai or race meeting or to otherwise effectuate this section. If no action has been taken by the permitholder within the 120-day period following the issuance of the order of suspension, the department ~~division~~ shall, without further notice or hearing, enter a final order of revocation of the permit. When any permitholder or sole proprietor of a permitholder is convicted of an offense specified in paragraph (1)(b), the department may approve a transfer of the permit to a qualified applicant, upon a finding that revocation of the permit would impair the state's revenue from the operation of the permit or otherwise be detrimental to the interests of the state in the regulation of the industry of pari-mutuel wagering. In such approval, no public referendum is required, notwithstanding any other provision of law. A petition for transfer after conviction must be filed with the department within 30 days after service upon the permitholder of the final order of revocation. The timely filing of such a petition automatically stays any revocation order until further order of the department.

(4) The circuit courts have jurisdiction to decide a petition brought by a holder of a pari-mutuel permit that shows that its permit is in jeopardy of suspension or revocation under subsection (3) and that it is unable to agree upon the terms of divestiture of interest with the person specified in subparagraphs (1)(a)3.-9. who has been convicted of an offense specified in paragraph (1)(b). The court shall determine the reasonable value of the interest of the convicted person and

313906

order a divestiture upon such terms and conditions as it finds just. In determining the value of the interest of the convicted person, the court may consider, among other matters, the value of the assets of the permitholder, its good will and value as a going concern, recent and expected future earnings, and other criteria usual and customary in the sale of like enterprises.

(5) The department ~~division~~ shall adopt ~~make~~ such rules for the photographing, fingerprinting, and obtaining of personal data of individuals described in paragraph (1)(a) and the obtaining of such data regarding the business entities described in paragraph (1)(a) as ~~is~~ necessary to effectuate the provisions of this section.

Section 31. Subsection (2), paragraph (c) of subsection (3), and subsections (4) and (6) of section 550.24055, Florida Statutes, are amended to read:

550.24055 Use of controlled substances or alcohol prohibited; testing of certain occupational licensees; penalty; evidence of test or action taken and admissibility for criminal prosecution limited.—

(2) The occupational licensees, by applying for and holding such licenses, are deemed to have given their consents to submit to an approved chemical test of their breath for the purpose of determining the alcoholic content of their blood and to a urine or blood test for the purpose of detecting the presence of controlled substances. Such tests shall ~~only~~ be conducted only upon reasonable cause that a violation has occurred as shall be determined solely by the stewards at a horseracing meeting or the judges or board of judges at a dogtrack or jai alai meet. The failure to submit to such test may result in a suspension of

313906

the person's occupational license for a period of 10 days or until this section has been complied with, whichever is longer.

(a) If there was at the time of the test 0.05 percent or less by weight of alcohol in the person's blood, the person is presumed not to have been under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and no action of any sort may be taken by the stewards, judges, or board of judges or the department ~~division~~.

(b) If there was at the time of the test an excess of 0.05 percent but less than 0.08 percent by weight of alcohol in the person's blood, that fact does not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that the person's faculties were impaired, but the stewards, judges, or board of judges may consider that fact in determining whether or not the person will be allowed to officiate or participate in any given race or jai alai game.

(c) If there was at the time of the test 0.08 percent or more by weight of alcohol in the person's blood, that fact is prima facie evidence that the person was under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and the stewards or judges may take action as set forth in this section, but the person may not officiate at or participate in any race or jai alai game on the day of such test.

All tests relating to alcohol must be performed in a manner substantially similar, or identical, to the provisions of s. 316.1934 and rules adopted pursuant to that section. Following a

test of the urine or blood to determine the presence of a controlled substance as defined in chapter 893, if a controlled substance is found to exist, the stewards, judges, or board of judges may take such action as is permitted in this section.

(3) A violation of subsection (2) is subject to the following penalties:

(c) If the second violation occurred within 1 year after the first violation, then upon the finding of a third violation of this section within 1 year after the second violation, the stewards, judges, or board of judges may suspend the licensee for up to 120 days; and the stewards, judges, or board of judges shall forward the results of the tests under paragraphs (a) and (b) and this violation to the department ~~division~~. In addition to the action taken by the stewards, judges, or board of judges, the department ~~division~~, after a hearing, may deny, suspend, or revoke the occupational license of the licensee and may impose a civil penalty of up to $5,000 in addition to, or in lieu of, a suspension or revocation, it being the intent of the Legislature that the department ~~division~~ shall have no authority over the enforcement of this section until a licensee has committed the third violation within 2 years after the first violation.

(4) Section 120.80(18) applies ~~The provisions of s. 120.80(4)(a) apply~~ to all actions taken by the stewards, judges, or board of judges pursuant to this section without regard to the limitation contained therein.

(6) Evidence of any test or actions taken by the stewards, judges, or board of judges or the department ~~division~~ under this section is inadmissible for any purpose in any court for criminal prosecution, it being the intent of the Legislature to

provide a method and means by which the health, safety, and welfare of those officiating at or participating in a race meet or a jai alai game are sufficiently protected. However, this subsection does not prohibit any person so authorized from pursuing an independent investigation as a result of a ruling made by the stewards, judges, or board of judges, or the department ~~division~~.

Section 32. Section 550.2415, Florida Statutes, is amended to read:

550.2415 Racing of animals under certain conditions prohibited; penalties; exceptions.—

(1)(a) The racing of an animal with any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent is prohibited. It is a violation of this section for a person to administer or cause to be administered any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent to an animal which will result in a positive test for such substance based on samples taken from the animal immediately prior to or immediately after the racing of that animal. Test results and the identities of the animals being tested and of their trainers and owners of record are confidential and exempt from s. 119.07(1) and from s. 24(a), Art. I of the State Constitution for 10 days after testing of all samples collected on a particular day has been completed and any positive test results derived from such samples have been reported to the director of the department ~~division~~ or administrative action has been commenced.

(b) It is a violation of this section for a race-day specimen to contain a level of a naturally occurring substance

313906

that ~~which~~ exceeds normal physiological concentrations. The department ~~division~~ may adopt rules that specify normal physiological concentrations of naturally occurring substances in the natural untreated animal and rules that specify acceptable levels of environmental contaminants and trace levels of substances in test samples.

(c) The finding of a prohibited substance in a race-day specimen constitutes prima facie evidence that the substance was administered and was carried in the body of the animal while participating in the race.

(2) Administrative action may be taken by the department ~~division~~ against an occupational licensee responsible pursuant to rule of the department ~~division~~ for the condition of an animal that has been impermissibly medicated or drugged in violation of this section.

(3)(a) Upon the finding of a violation of this section, the department ~~division~~ may revoke or suspend the license or permit of the violator or deny a license or permit to the violator; impose a fine against the violator in an amount not exceeding $5,000; require the full or partial return of the purse, sweepstakes, and trophy of the race at issue; or impose against the violator any combination of such penalties. The finding of a violation of this section in no way prohibits a prosecution for criminal acts committed.

(b) The department ~~division~~, notwithstanding ~~the provisions of~~ chapter 120, may summarily suspend the license of an occupational licensee responsible under this section or department ~~division~~ rule for the condition of a race animal if the department's ~~division~~ laboratory reports the presence of an

impermissible substance in the animal or its blood, urine, saliva, or any other bodily fluid, either before a race in which the animal is entered or after a race the animal has run.

(c) If an occupational licensee is summarily suspended under this section, the department ~~division~~ shall offer the licensee a prompt postsuspension hearing within 72 hours, at which the department ~~division~~ shall produce the laboratory report and documentation that ~~which~~, on its face, establishes the responsibility of the occupational licensee. Upon production of the documentation, the occupational licensee has the burden of proving his or her lack of responsibility.

(d) Any proceeding for administrative action against a licensee or permittee, other than a proceeding under paragraph (c), shall be conducted in compliance with chapter 120.

(4) A prosecution pursuant to this section for a violation of this section must be commenced within 2 years after the violation was committed. Service of an administrative complaint marks the commencement of administrative action.

(5) The department ~~division~~ shall implement a split-sample procedure for testing animals under this section.

(a) Upon finding a positive drug test result, the department shall notify the owner or trainer of the results. The owner may request that each urine and blood sample be split into a primary sample and a secondary (split) sample. Such splitting must be accomplished in the laboratory under rules approved by the department ~~division~~. Custody of both samples must remain with the department ~~division~~. However, upon request by the affected trainer or owner of the animal from which the sample was obtained, the department ~~division~~ shall send the split

313906

sample to an approved independent laboratory for analysis. The department ~~division~~ shall establish standards and rules for uniform enforcement and shall maintain a list of at least five approved independent laboratories for an owner or trainer to select from in the event of a positive test sample.

(b) If the state laboratory's findings are not confirmed by the independent laboratory, no further administrative or disciplinary action under this section may be pursued. The department ~~division~~ may adopt rules identifying substances that diminish in a blood or urine sample due to passage of time and that must be taken into account in applying this section.

(c) If the independent laboratory confirms the state laboratory's positive result, or if there is an insufficient quantity of the secondary (split) sample for confirmation of the state laboratory's positive result, the department ~~division~~ may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120. For purposes of this subsection, the department shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a primary test and a secondary test to be made.

(6)(a) It is the intent of the Legislature that animals that participate in races in this state on which pari-mutuel wagering is conducted and animals that are bred and trained in this state for racing be treated humanely, both on and off racetracks, throughout the lives of the animals.

(b) The department ~~division~~ shall, by rule, adopt ~~establish~~ the procedures for euthanizing greyhounds. However, a greyhound may not be put to death by any means other than by lethal injection of the drug sodium pentobarbital. A greyhound may not

313906

be removed from this state for the purpose of being destroyed.

(c) It is a violation of this chapter for an occupational licensee to train a greyhound using live or dead animals. A greyhound may not be taken from this state for the purpose of being trained through the use of live or dead animals.

(d) Any act committed by any licensee that would constitute cruelty to animals as defined in s. 828.02 involving any animal constitutes a violation of this chapter. Imposition of any penalty by the department ~~division~~ for violation of this chapter or any rule adopted by the department ~~division~~ pursuant to this chapter does ~~shall~~ not prohibit a criminal prosecution for cruelty to animals.

(e) The department ~~division~~ may inspect any area at a pari-mutuel facility where racing animals are raced, trained, housed, or maintained, including any areas where food, medications, or other supplies are kept, to ensure the humane treatment of racing animals and compliance with this chapter and the rules of the department ~~division~~.

(7) Under no circumstances may any medication be administered closer than 24 hours prior to the officially scheduled post time of a race except as provided for in this section.

(a) The department ~~division~~ shall adopt rules setting conditions for the use of furosemide to treat exercise-induced pulmonary hemorrhage.

(b) The department ~~division~~ shall adopt rules setting conditions for the use of prednisolone sodium succinate, but under no circumstances may furosemide or prednisolone sodium succinate be administered closer than 4 hours prior to the

313906

officially scheduled post time for the race.

(c) The department ~~division~~ shall adopt rules setting conditions for the use of phenylbutazone and synthetic corticosteroids; in no case, except as provided in paragraph (b), shall these substances be given closer than 24 hours prior to the officially scheduled post time of a race. Oral corticosteroids are prohibited except when prescribed by a licensed veterinarian and reported to the department ~~division~~ on forms prescribed by the department ~~division~~.

(d) ~~Nothing in~~ This section does not ~~shall be interpreted to~~ prohibit the use of vitamins, minerals, or naturally occurring substances so long as they do not exceed ~~none exceeds~~ the normal physiological concentration in a race-day specimen.

(e) The department ~~division~~ may, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimens by which the administration of permitted medication is monitored.

(8)(a) Under no circumstances may any medication be administered within 24 hours before the officially scheduled post time of the race except as provided in this section.

(b) As an exception to this section, if the department ~~division~~ first determines that the use of furosemide, phenylbutazone, or prednisolone sodium succinate in horses is in the best interest of racing, the department ~~division~~ may adopt rules allowing such use. Any rules allowing the use of furosemide, phenylbutazone, or prednisolone sodium succinate in racing must set the conditions for such use. Under no circumstances may a rule be adopted which allows the administration of furosemide or prednisolone sodium succinate

313906

within 4 hours before the officially scheduled post time for the race. Under no circumstances may a rule be adopted which allows the administration of phenylbutazone or any other synthetic corticosteroid within 24 hours before the officially scheduled post time for the race. Any administration of synthetic corticosteroids is limited to parenteral routes. Oral administration of synthetic corticosteroids is expressly prohibited. If this paragraph is unconstitutional, it is severable from the remainder of this section.

(c) The department ~~division~~ shall, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimen by which the administration of permitted medications is monitored.

(9)(a) The department ~~division~~ may conduct a postmortem examination of any animal that is injured at a permitted racetrack while in training or in competition and that subsequently expires or is destroyed. The department ~~division~~ may conduct a postmortem examination of any animal that expires while housed at a permitted racetrack, association compound, or licensed kennel or farm. Trainers and owners shall be requested to comply with this paragraph as a condition of licensure.

(b) The department ~~division~~ may take possession of the animal upon death for postmortem examination. The department ~~division~~ may submit blood, urine, other bodily fluid specimens, or other tissue specimens collected during a postmortem examination for testing by the department ~~division~~ laboratory or its designee. Upon completion of the postmortem examination, the carcass must be returned to the owner or disposed of at the owner’s option.

313906

(10) The presence of a prohibited substance in an animal, found by the department's ~~division~~ laboratory in a bodily fluid specimen collected during the postmortem examination of the animal, which breaks down during a race constitutes a violation of this section.

(11) The cost of postmortem examinations, testing, and disposal must be borne by the department ~~division~~.

(12) The department ~~division~~ shall adopt rules to implement this section. The rules may include a classification system for prohibited substances and a corresponding penalty schedule for violations.

(13) Except as specifically modified by statute or by rules of the department ~~division~~, the Uniform Classification Guidelines for Foreign Substances, revised February 14, 1995, as promulgated by the Association of Racing Commissioners International, Inc., is hereby adopted by reference as the uniform classification system for class IV and V medications.

(14) The department ~~division~~ shall utilize only the thin layer chromatography (TLC) screening process to test for the presence of class IV and V medications in samples taken from racehorses except when thresholds of a class IV or class V medication have been established and are enforced by rule. Once a sample has been identified as suspicious for a class IV or class V medication by the TLC screening process, the sample will be sent for confirmation by and through additional testing methods. All other medications not classified by rule as a class IV or class V agent are ~~shall be~~ subject to all forms of testing available to the department ~~division~~.

(15) The department ~~division~~ may implement by rule

313906

medication levels recommended by the University of Florida College of Veterinary Medicine developed pursuant to an agreement between the department ~~Division of Pari-mutuel Wagering~~ and the University of Florida College of Veterinary Medicine. The University of Florida College of Veterinary Medicine may provide written notification to the department ~~division~~ that it has completed research or review on a particular drug pursuant to the agreement and when the College of Veterinary Medicine has completed a final report of its findings, conclusions, and recommendations to the department ~~division~~.

(16) The testing medium for phenylbutazone in horses shall be serum, and the department ~~division~~ may collect up to six full 15-milliliter blood tubes for each horse being sampled.

Section 33. Section 550.2614, Florida Statutes, is amended to read:

550.2614 Distribution of certain funds to a horsemen's association.—

(1) Each licensee that holds a permit for thoroughbred horse racing in this state shall deduct from the purses required by s. 550.2625, an amount of money equal to 1 percent of the total purse pool and shall pay that amount to a horsemen's association representing the majority of the thoroughbred racehorse owners and trainers for its use in accordance with the stated goals of its articles of association filed with the Department of State.

(2) The funds are payable to the horsemen's association only upon presentation of a sworn statement by the officers of the association that the horsemen's association represents a

313906

majority of the owners and trainers of thoroughbred horses stabled in the state.

(3) Upon receiving a state license, each thoroughbred owner and trainer shall receive automatic membership in the horsemen's association as defined in subsection (1) and be counted on the membership rolls of that association, unless, within 30 calendar days after receipt of license from the state, the individual declines membership in writing, to the association as defined in subsection (1).

(4) The department ~~division~~ shall adopt rules to facilitate the orderly transfer of funds in accordance with this section. The department ~~division~~ shall also monitor the membership rolls of the horsemen's association to ensure that complete, accurate, and timely listings are maintained for the purposes specified in this section.

Section 34. Subsection (3) of section 550.26165, Florida Statutes, is amended to read:

550.26165 Breeders' awards.—

(3) Breeders' associations shall submit their plans to the department ~~division~~ at least 60 days before the beginning of the payment year. The payment year may be a calendar year or any 12-month period, but once established, the yearly base may not be changed except for compelling reasons. Once a plan is approved, the department ~~division~~ may not allow the plan to be amended during the year, except for the most compelling reasons.

Section 35. Section 550.2625, Florida Statutes, is amended to read:

550.2625 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.—

313906

(1) The purse structure and the availability of breeder awards are important factors in attracting the entry of well-bred horses in racing meets in this state which in turn helps to produce maximum racing revenues for the state and the counties.

(2) Each permitholder conducting a horserace meet is required to pay from the takeout withheld on pari-mutuel pools a sum for purses in accordance with the type of race performed.

(a) A permitholder conducting a thoroughbred horse race meet under this chapter must pay from the takeout withheld a sum not less than 7.75 percent of all contributions to pari-mutuel pools conducted during the race meet as purses. In addition to the 7.75 percent minimum purse payment, permitholders conducting live thoroughbred performances shall be required to pay as additional purses .625 percent of live handle for performances conducted during the period beginning on January 3 and ending March 16; .225 percent for performances conducted during the period beginning March 17 and ending May 22; and .85 percent for performances conducted during the period beginning May 23 and ending January 2. Except that any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million is not subject to this additional purse payment. A permitholder authorized to conduct thoroughbred racing may withhold from the handle an additional amount equal to 1 percent on exotic wagering for use as owners' awards, and may withhold from the handle an amount equal to 2 percent on exotic wagering for use as overnight purses. A ~~No~~ permitholder may not withhold in excess of 20 percent from the handle without withholding the amounts set forth in this subsection.

(b)1. A permitholder conducting a harness horse race meet under this chapter must pay to the purse pool from the takeout withheld a purse requirement that totals an amount not less than 8.25 percent of all contributions to pari-mutuel pools conducted during the race meet. An amount not less than 7.75 percent of the total handle shall be paid from this purse pool as purses.

2. An amount not to exceed 0.5 percent of the total handle on all harness horse races that are subject to the purse requirement of subparagraph 1., must be available for use to provide medical, dental, surgical, life, funeral, or disability insurance benefits for occupational licensees who work at tracks in this state at which harness horse races are conducted. Such insurance benefits must be paid from the purse pool specified in subparagraph 1. An annual plan for payment of insurance benefits from the purse pool, including qualifications for eligibility, must be submitted by the Florida Standardbred Breeders and Owners Association for approval to the department ~~division~~. An annual report of the implemented plan shall be submitted to the department ~~division~~. All records of the Florida Standardbred Breeders and Owners Association concerning the administration of the plan must be available for audit at the discretion of the department ~~division~~ to determine that the plan has been implemented and administered as authorized. If the department ~~division~~ finds that the Florida Standardbred Breeders and Owners Association has not complied with the provisions of this section, the department ~~division~~ may order the association to cease and desist from administering the plan and shall appoint the department ~~division~~ as temporary administrator of the plan until the department ~~division~~ reestablishes administration of

the plan with the association.

(c) A permitholder conducting a quarter horse race meet under this chapter shall pay from the takeout withheld a sum not less than 6 percent of all contributions to pari-mutuel pools conducted during the race meet as purses.

(d) The department ~~division~~ shall adopt reasonable rules to ensure the timely and accurate payment of all amounts withheld by horserace permitholders regarding the distribution of purses, owners' awards, and other amounts collected for payment to owners and breeders. Each permitholder that fails to pay out all moneys collected for payment to owners and breeders shall, within 10 days after the end of the meet during which the permitholder underpaid purses, deposit an amount equal to the underpayment into a separate interest-bearing account to be distributed to owners and breeders in accordance with department ~~division~~ rules.

(e) An amount equal to 8.5 percent of the purse account generated through intertrack wagering and interstate simulcasting will be used for Florida Owners' Awards as set forth in subsection (3). Any thoroughbred permitholder with an average blended takeout that ~~which~~ does not exceed 20 percent and with an average daily purse distribution excluding sponsorship, entry fees, and nominations exceeding $225,000 is exempt from the provisions of this paragraph.

(3) Each horseracing permitholder conducting any thoroughbred race under this chapter, including any intertrack race taken pursuant to ss. 550.615-550.6305 or any interstate simulcast taken pursuant to s. 550.3551(3) shall pay a sum equal to 0.955 percent on all pari-mutuel pools conducted during any

313906

such race for the payment of breeders', stallion, or special racing awards as authorized in this chapter. This subsection also applies to all Breeder's Cup races conducted outside this state taken pursuant to s. 550.3551(3). On any race originating live in this state which is broadcast out-of-state to any location at which wagers are accepted pursuant to s. 550.3551(2), the host track is required to pay 3.475 percent of the gross revenue derived from such out-of-state broadcasts as breeders', stallion, or special racing awards. The Florida Thoroughbred Breeders' Association is authorized to receive these payments from the permitholders and make payments of awards earned. The Florida Thoroughbred Breeders' Association has the right to withhold up to 10 percent of the permitholder's payments under this section as a fee for administering the payments of awards and for general promotion of the industry. The permitholder shall remit these payments to the Florida Thoroughbred Breeders' Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the department ~~division~~ as prescribed by the department ~~division~~. With the exception of the 10-percent fee, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account, and such payments together with any interest earned shall be used exclusively for the payment of breeders', stallion, or special racing awards in accordance with the following provisions:

(a) The breeder of each Florida-bred thoroughbred horse winning a thoroughbred horse race is entitled to an award of up to, but not exceeding, 20 percent of the announced gross purse,

including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred thoroughbred horse that wins a stakes race is entitled to a stallion award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) The owners of thoroughbred horses participating in thoroughbred stakes races, nonstakes races, or both may receive a special racing award in accordance with the agreement established pursuant to s. 550.26165(1).

(d) In order for a breeder of a Florida-bred thoroughbred horse to be eligible to receive a breeder's award, the horse must have been registered as a Florida-bred horse with the Florida Thoroughbred Breeders' Association, and the Jockey Club certificate for the horse must show that it has been duly registered as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Thoroughbred Breeders' Association registry. The Florida Thoroughbred Breeders' Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(e) In order for an owner of the sire of a thoroughbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Thoroughbred Breeders' Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state during the period of time between February 1 and June 15 of each year

or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state during the period of time between February 1 and June 15 of any year for any reason, other than exclusively for prescribed medical treatment, as approved by the Florida Thoroughbred Breeders' Association, renders the owner or owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Thoroughbred Breeders' Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(f) A permitholder conducting a thoroughbred horse race under the provisions of this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Thoroughbred Breeders' Association such information relating to the thoroughbred horses winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders', stallion, and special racing awards.

313906

(g) The Florida Thoroughbred Breeders' Association shall maintain complete records showing the starters and winners in all races conducted at thoroughbred tracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(h) The Florida Thoroughbred Breeders' Association shall annually establish a uniform rate and procedure for the payment of breeders' and stallion awards and shall make breeders' and stallion award payments in strict compliance with the established uniform rate and procedure plan. The plan may set a cap on winnings and may limit, exclude, or defer payments to certain classes of races, such as the Florida stallion stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Such plan must include proposals for the general promotion of the industry. Priority shall be placed upon imposing such restrictions in lieu of allowing the uniform rate to be less than 15 percent of the total purse payment. The uniform rate and procedure plan must be approved by the <u>department</u> ~~division~~ before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards is 15 percent of the announced gross purse for each race. Such purse must include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. If the funds in the account for payment of breeders' and stallion awards are not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments have first call on any subsequent receipts in that or any subsequent

313906

year.

(i) The Florida Thoroughbred Breeders' Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the department ~~division~~ showing such receipts and disbursements and the sums withheld for administration. The department ~~division~~ may audit the records and accounts of the Florida Thoroughbred Breeders' Association to determine that payments have been made to eligible breeders and stallion owners in accordance with this section.

(j) If the department ~~division~~ finds that the Florida Thoroughbred Breeders' Association has not complied with any provision of this section, the department ~~division~~ may order the association to cease and desist from receiving funds and administering funds received under this section. If the department ~~division~~ enters such an order, the permitholder shall make the payments authorized in this section to the department ~~division~~ for deposit into the Pari-mutuel Wagering Trust Fund; and any funds in the Florida Thoroughbred Breeders' Association account shall be immediately paid to the department ~~Division of Pari-mutuel Wagering~~ for deposit to the Pari-mutuel Wagering Trust Fund. The department ~~division~~ shall authorize payment from these funds to any breeder or stallion owner entitled to an award that has not been previously paid by the Florida Thoroughbred Breeders' Association in accordance with the applicable rate.

(4) Each permitholder conducting a harness horse race under this chapter shall pay a sum equal to the breaks on all pari-mutuel pools conducted during that race for the payment of

313906

breeders' awards, stallion awards, and stallion stakes and for additional expenditures as authorized in this section. The Florida Standardbred Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments as authorized in this subsection. The Florida Standardbred Breeders and Owners Association has the right to withhold up to 10 percent of the permitholder's payments under this section and under s. 550.2633 as a fee for administering these payments. The permitholder shall remit these payments to the Florida Standardbred Breeders and Owners Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the department ~~division~~ as prescribed by the department ~~division~~. With the exception of the 10-percent fee for administering the payments and the use of the moneys authorized by paragraph (j), the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account; and such payments together with any interest earned shall be allocated for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and the general promotion of owning and breeding of, Florida-bred standardbred horses. Payment of breeders' awards and stallion awards shall be made in accordance with the following provisions:

(a) The breeder of each Florida-bred standardbred horse winning a harness horse race is entitled to an award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred

313906

standardbred horse that wins a stakes race is entitled to a stallion award of up to, but not exceeding, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) In order for a breeder of a Florida-bred standardbred horse to be eligible to receive a breeder's award, the horse winning the race must have been registered as a Florida-bred horse with the Florida Standardbred Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winner has been duly registered as a Florida-bred horse as evidenced by the seal and proper serial number of the United States Trotting Association registry. The Florida Standardbred Breeders and Owners Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(d) In order for an owner of the sire of a standardbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Standardbred Breeders and Owners Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state for any reason, other than exclusively for prescribed medical treatment, renders the owner or the owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is

returned to this state, all offspring sired subsequent to the return make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(e) A permitholder conducting a harness horse race under this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Standardbred Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards and stallion awards.

(f) The Florida Standardbred Breeders and Owners Association shall maintain complete records showing the starters and winners in all races conducted at harness horse racetracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(g) The Florida Standardbred Breeders and Owners Association shall annually establish a uniform rate and procedure for the payment of breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred

313906

standardbred horses and shall make award payments and allocations in strict compliance with the established uniform rate and procedure. The plan may set a cap on winnings, and may limit, exclude, or defer payments to certain classes of races, such as the Florida Breeders' stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Priority shall be placed on imposing such restrictions in lieu of allowing the uniform rate allocated to payment of breeder and stallion awards to be less than 10 percent of the total purse payment. The uniform rate and procedure must be approved by the department ~~division~~ before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards is 10 percent of the announced gross purse for each race. Such purse must include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. If the funds in the account for payment of breeders' and stallion awards are not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(h) The Florida Standardbred Breeders and Owners Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the department ~~division~~ showing such receipts and disbursements and the sums withheld for administration. The department ~~division~~ may audit the records and accounts of the Florida Standardbred Breeders and Owners Association to determine that payments have been made to


313906

eligible breeders, stallion owners, and owners of Florida-bred standardbred horses in accordance with this section.

(i) If the department ~~division~~ finds that the Florida Standardbred Breeders and Owners Association has not complied with any provision of this section, the department ~~division~~ may order the association to cease and desist from receiving funds and administering funds received under this section and under s. 550.2633. If the department ~~division~~ enters such an order, the permitholder shall make the payments authorized in this section and s. 550.2633 to the department ~~division~~ for deposit into the Pari-mutuel Wagering Trust Fund; and any funds in the Florida Standardbred Breeders and Owners Association account shall be immediately paid to the department ~~division~~ for deposit to the Pari-mutuel Wagering Trust Fund. The department ~~division~~ shall authorize payment from these funds to any breeder, stallion owner, or owner of a Florida-bred standardbred horse entitled to an award that has not been previously paid by the Florida Standardbred Breeders and Owners Association in accordance with the applicable rate.

(j) The board of directors of the Florida Standardbred Breeders and Owners Association may authorize the release of up to 25 percent of the funds available for breeders' awards, stallion awards, stallion stakes, additional purses, and prizes for, and for the general promotion of owning and breeding of, Florida-bred standardbred horses to be used for purses for, and promotion of, Florida-bred standardbred horses at race meetings at which there is no pari-mutuel wagering unless, and to the extent that, such release would render the funds available for such awards insufficient to pay the breeders' and stallion

313906

awards earned pursuant to the annual plan of the association. Any such funds so released and used for purses are not considered to be an "announced gross purse" as that term is used in paragraphs (a) and (b), and no breeders' or stallion awards, stallion stakes, or owner awards are required to be paid for standardbred horses winning races in meetings at which there is no pari-mutuel wagering. The amount of purses to be paid from funds so released and the meets eligible to receive such funds for purses must be approved by the board of directors of the Florida Standardbred Breeders and Owners Association.

(5)(a) Except as provided in subsections (7) and (8), each permitholder conducting a quarter horse race meet under this chapter shall pay a sum equal to the breaks plus a sum equal to 1 percent of all pari-mutuel pools conducted during that race for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state as authorized in this section. The Florida Quarter Horse Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments as authorized in this subsection. The Florida Quarter Horse Breeders and Owners Association, Inc., referred to in this chapter as the Florida Quarter Horse Breeders and Owners Association, has the right to withhold up to 10 percent of the permitholder's payments under this section and under s. 550.2633 as a fee for administering these payments. The permitholder shall remit these payments to the Florida Quarter Horse Breeders and Owners Association by the 5th day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the <u>department</u> ~~division~~ as prescribed by

313906

the department ~~division~~. With the exception of the 5-percent fee for administering the payments, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account.

(b) The Florida Quarter Horse Breeders and Owners Association shall use these funds solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state and for general administration of the Florida Quarter Horse Breeders and Owners Association, Inc., in this state.

(c) In order for an owner or breeder of a Florida-bred quarter horse to be eligible to receive an award, the horse winning a race must have been registered as a Florida-bred horse with the Florida Quarter Horse Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winning horse has been duly registered prior to the race as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Quarter Horse Breeders and Owners Association registry. The Department of Agriculture and Consumer Services is authorized to assist the association in maintaining this registry. The Florida Quarter Horse Breeders and Owners Association may charge the registrant a reasonable fee for this verification and registration. Any person who registers unqualified horses or misrepresents information in any way shall be denied any future participation in breeders' awards, and all horses misrepresented will no longer be deemed to be Florida-bred.

(d) A permitholder conducting a quarter horse race under a quarter horse permit under this chapter shall, within 30 days

after the end of the race meet during which the race is conducted, certify to the Florida Quarter Horse Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards under this section.

(e) The Florida Quarter Horse Breeders and Owners Association shall maintain complete records showing the starters and winners in all quarter horse races conducted under quarter horse permits in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(f) The Florida Quarter Horse Breeders and Owners Association shall keep accurate records showing receipts and disbursements of payments made under this section and shall annually file a full and complete report to the department ~~division~~ showing such receipts and disbursements and the sums withheld for administration. The department ~~division~~ may audit the records and accounts of the Florida Quarter Horse Breeders and Owners Association to determine that payments have been made in accordance with this section.

(g) The Florida Quarter Horse Breeders and Owners Association shall annually establish a plan for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding Florida-bred racing quarter horses and shall make award payments and allocations in strict compliance with the annual plan. The annual plan must be approved by the department ~~division~~ before implementation. If the funds in the account for payment of purses and prizes are not sufficient to

313906

meet all purses and prizes to be awarded, those breeders and owners not receiving payments have first call on any subsequent receipts in that or any subsequent year.

(h) If the department ~~division~~ finds that the Florida Quarter Horse Breeders and Owners Association has not complied with any provision of this section, the department ~~division~~ may order the association to cease and desist from receiving funds and administering funds received under this section and s. 550.2633. If the department ~~division~~ enters such an order, the permitholder shall make the payments authorized in this section and s. 550.2633 to the department ~~division~~ for deposit into the Pari-mutuel Wagering Trust Fund, and any funds in the Florida Quarter Horse Breeders and Owners Association account shall be immediately paid to the department ~~division~~ for deposit to the Pari-mutuel Wagering Trust Fund. The department ~~division~~ shall authorize payment from these funds to any breeder or owner of a quarter horse entitled to an award that has not been previously paid by the Florida Quarter Horse Breeders and Owners Association pursuant to ~~in accordance with~~ this section.

(6)(a) The takeout may be used for the payment of awards to owners of registered Florida-bred horses placing first in a claiming race, an allowance race, a maiden special race, or a stakes race in which the announced purse, exclusive of entry and starting fees and added moneys, does not exceed $40,000.

(b) The permitholder shall determine for each qualified race the amount of the owners' award for which a registered Florida-bred horse will be eligible. The amount of the available owners' award shall be established in the same manner in which purses are established and shall be published in the condition

book for the period during which the race is to be conducted. No single award may exceed 50 percent of the gross purse for the race won.

(c) If the moneys generated under paragraph (a) during the meet exceed the owners' awards earned during the meet, the excess funds shall be held in a separate interest-bearing account, and the total interest and principal shall be used to increase the owners' awards during the permitholder's next meet.

(d) Breeders' awards authorized by subsections (3) and (4) may not be paid on owners' awards.

(e) This subsection governs owners' awards paid on thoroughbred horse races only in this state, unless a written agreement is filed with the department ~~division~~ establishing the rate, procedures, and eligibility requirements for owners' awards, including place of finish, class of race, maximum purse, and maximum award, and the agreement is entered into by the permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the racehorse owners and trainers at the permitholder's location.

(7)(a) Each permitholder that conducts race meets under this chapter and runs Appaloosa races shall pay to the department ~~division~~ a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to each pari-mutuel pool conducted on each Appaloosa race. The payments shall be remitted to the department ~~division~~ by the 5th day of each calendar month for sums accruing during the preceding calendar month.

(b) The department ~~division~~ shall deposit these collections to the credit of the General Inspection Trust Fund in a special account to be known as the "Florida Appaloosa Racing Promotion

313906

Account." The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Appaloosa Racing Promotion Account shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Appaloosas in this state; and the moneys may not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter.

(8)(a) Each permitholder that conducts race meets under this chapter and runs Arabian horse races shall pay to the department ~~division~~ a sum equal to the breaks plus a sum equal to 1 percent of the total contributions to each pari-mutuel pool conducted on each Arabian horse race. The payments shall be remitted to the department ~~division~~ by the 5th day of each calendar month for sums accruing during the preceding calendar month.

(b) The department ~~division~~ shall deposit these collections to the credit of the General Inspection Trust Fund in a special account to be known as the "Florida Arabian Horse Racing Promotion Account." The Department of Agriculture and Consumer Services shall administer the funds and adopt suitable and reasonable rules for the administration thereof. The moneys in the Florida Arabian Horse Racing Promotion Account shall be allocated solely for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing Arabian horses in this state; and the moneys may not be used to defray any expense of the Department of Agriculture and Consumer Services in the administration of this chapter, except

313906

that the moneys generated by Arabian horse registration fees received pursuant to s. 570.382 may be used as provided in paragraph (5)(b) of that section.

Section 36. Section 550.26352, Florida Statutes, is amended to read:

550.26352 Breeders' Cup Meet; pools authorized; conflicts; taxes; credits; transmission of races; rules; application.—

(1) Notwithstanding any provision of this chapter to the contrary, there is ~~hereby~~ created a special thoroughbred race meet that ~~which~~ shall be designated as the "Breeders' Cup Meet." The Breeders' Cup Meet shall be conducted at the facility of the Florida permitholder selected by Breeders' Cup Limited to conduct the Breeders' Cup Meet. The Breeders' Cup Meet shall consist of 3 days: the day on which the Breeders' Cup races are conducted, the preceding day, and the subsequent day. Upon the selection of the Florida permitholder as host for the Breeders' Cup Meet and application by the selected permitholder, the department ~~division~~ shall issue a license to the selected permitholder to operate the Breeders' Cup Meet. Notwithstanding s. 550.09515(2)(a), the Breeders' Cup Meet may be conducted on dates that ~~which~~ the selected permitholder is not otherwise authorized to conduct a race meet.

(2) The permitholder conducting the Breeders' Cup Meet is specifically authorized to create pari-mutuel pools during the Breeders' Cup Meet by accepting pari-mutuel wagers on the thoroughbred horse races run during said meet.

(3) If the permitholder conducting the Breeders' Cup Meet is located within 35 miles of one or more permitholders scheduled to conduct a thoroughbred race meet on any of the 3

313906

days of the Breeders' Cup Meet, then operation on any of those 3 days by the other permitholders is prohibited. As compensation for the loss of racing days caused thereby, such operating permitholders shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515. This credit shall be in an amount equal to the operating loss determined to have been suffered by the operating permitholders as a result of not operating on the prohibited racing days, but may ~~shall~~ not exceed a total of $950,000. The determination of the amount to be credited shall be made by the department ~~division~~ upon application by the operating permitholder. The tax credits provided in this subsection are ~~shall~~ not ~~be~~ available unless an operating permitholder is required to close a bona fide meet consisting in part of no fewer than 10 scheduled performances in the 15 days immediately preceding or 10 scheduled performances in the 15 days immediately following the Breeders' Cup Meet. Such tax credit shall be in lieu of any other compensation or consideration for the loss of racing days. There shall be no replacement or makeup of any lost racing days.

(4) Notwithstanding any provision of ss. 550.0951 and 550.09515, the permitholder conducting the Breeders' Cup Meet shall pay no taxes on the handle included within the pari-mutuel pools of said permitholder during the Breeders' Cup Meet.

(5) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $950,000 and shall be used ~~utilized~~ by the permitholder to pay

313906

the purses offered by the permitholder during the Breeders' Cup Meet in excess of the purses that ~~which~~ the permitholder is otherwise required by law to pay. The amount to be credited shall be determined by the department ~~division~~ upon application of the permitholder which is subject to audit by the department ~~division~~.

(6) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $950,000 and shall be utilized by the permitholder for such capital improvements and extraordinary expenses as may be necessary for operation of the Breeders' Cup Meet. The amount to be credited shall be determined by the department ~~division~~ upon application of the permitholder which is subject to audit by the department ~~division~~.

(7) The permitholder conducting the Breeders' Cup Meet is ~~shall be~~ exempt from the payment of purses and other payments to horsemen on all on-track, intertrack, interstate, and international wagers or rights fees or payments arising therefrom for all races for which the purse is paid or supplied by Breeders' Cup Limited. The permitholder conducting the Breeders' Cup Meet is ~~shall~~ not, however, ~~be~~ exempt from breeders' awards payments for on-track and intertrack wagers as provided in ss. 550.2625(3) and 550.625(2)(a) for races in which the purse is paid or supplied by Breeders' Cup Limited.

(8)(a) Pursuant to s. 550.3551(2), the permitholder conducting the Breeders' Cup Meet may ~~is authorized to~~ transmit

313906

broadcasts of the races conducted during the Breeders' Cup Meet to locations outside ~~of~~ this state for wagering purposes. The department ~~division~~ may approve broadcasts to pari-mutuel permitholders and other betting systems authorized under the laws of any other state or country. Wagers accepted by any out-of-state pari-mutuel permitholder or betting system on any races broadcast under this section may be, but are not required to be, commingled with the pari-mutuel pools of the permitholder conducting the Breeders' Cup Meet. The calculation of any payoff on national pari-mutuel pools with commingled wagers may be performed by the permitholder's totalisator contractor at a location outside ~~of~~ this state. Pool amounts from wagers placed at pari-mutuel facilities or other betting systems in foreign countries before being commingled with the pari-mutuel pool of the Florida permitholder conducting the Breeders' Cup Meet shall be calculated by the totalisator contractor and transferred to the commingled pool in United States currency in cycles customarily used by the permitholder. Pool amounts from wagers placed at any foreign pari-mutuel facility or other betting system may ~~shall~~ not be commingled with a Florida pool until a determination is made by the department ~~division~~ that the technology utilized by the totalisator contractor is adequate to assure commingled pools will result in the calculation of accurate payoffs to Florida bettors. Any totalisator contractor at a location outside ~~of~~ this state shall comply with the provisions of s. 550.495 relating to totalisator licensing.

(b) The permitholder conducting the Breeders' Cup Meet may ~~is authorized to~~ transmit broadcasts of the races conducted during the Breeders' Cup Meet to other pari-mutuel facilities

313906

located in this state for wagering purposes; however, the permitholder conducting the Breeders' Cup Meet is ~~shall~~ not ~~be~~ required to transmit broadcasts to any pari-mutuel facility located within 25 miles of the facility at which the Breeders' Cup Meet is conducted.

(9) The exemption from the tax credits provided in subsections (5) and (6) may ~~shall~~ not be granted and may ~~shall~~ not be claimed by the permitholder until an audit is completed by the department ~~division~~. The department ~~division~~ is required to complete the audit within 30 days of receipt of the necessary documentation from the permitholder to verify the permitholder's claim for tax credits. If the documentation submitted by the permitholder is incomplete or is insufficient to document the permitholder's claim for tax credits, the department ~~division~~ may request such additional documentation as is necessary to complete the audit. Upon receipt of the department's ~~division's~~ written request for additional documentation, the 30-day time limitation will commence anew.

(10) The department may ~~division is authorized to~~ adopt ~~such~~ rules ~~as are necessary~~ to facilitate the conduct of the Breeders' Cup Meet, including ~~as authorized in this section. Included within this grant of authority shall be the adoption or waiver of~~ rules regarding the overall conduct of racing during the Breeders' Cup Meet so as to ensure the integrity of the races, licensing for all participants, special stabling and training requirements for foreign horses, commingling of pari-mutuel pools, and audit requirements for tax credits and other benefits.

(11) Any dispute between the department ~~division~~ and any

313906

permitholder regarding the tax credits authorized under subsection (3), subsection (5), or subsection (6) shall be determined by a hearing officer of the Division of Administrative Hearings under the provisions of s. 120.57(1).

(12) The provisions of this section shall prevail over any conflicting provisions of this chapter.

Section 37. Section 550.2704, Florida Statutes, is amended to read:

550.2704 Jai Alai Tournament of Champions Meet.—

(1) Notwithstanding any provision of this chapter, there is ~~hereby~~ created a special jai alai meet that ~~which~~ shall be designated as the "Jai Alai Tournament of Champions Meet" and ~~which~~ shall be hosted by the Florida jai alai permitholders selected by the National Association of Jai Alai Frontons, Inc., to conduct such meet. The meet shall consist of three qualifying performances and a final performance, each of which is to be conducted on different days. Upon the selection of the Florida permitholders for the meet, and upon application by the selected permitholders, the department ~~Division of Pari-mutuel Wagering~~ shall issue a license to each of the selected permitholders to operate the meet. The meet may be conducted during a season in which the permitholders selected to conduct the meet are not otherwise authorized to conduct a meet. Notwithstanding anything herein to the contrary, any Florida permitholder who is to conduct a performance that ~~which~~ is a part of the Jai Alai Tournament of Champions Meet is ~~shall~~ not ~~be~~ required to apply for the license for said meet if it is to be run during the regular season for which such permitholder has a license.

(2) Qualifying performances and the final performance of

313906

the tournament shall be held at different locations throughout the state, and the permitholders selected shall be under different ownership to the extent possible.

(3) Notwithstanding any provision of this chapter, each of the permitholders licensed to conduct performances comprising the Jai Alai Tournament of Champions Meet shall pay no taxes on handle under s. 550.0951 or s. 550.09511 for any performance conducted by such permitholder as part of the Jai Alai Tournament of Champions Meet. The provisions of this subsection shall apply to a maximum of four performances.

(4) The Jai Alai Tournament of Champions Meet permitholders shall also receive a credit against the taxes, otherwise due and payable under s. 550.0951 or s. 550.09511, generated during said permitholders' current regular meet. This credit shall be in the aggregate amount of $150,000, shall be prorated equally between the permitholders, and shall be used ~~utilized~~ by the permitholders solely to supplement awards for the performance conducted during the Jai Alai Tournament of Champions Meet. All awards shall be paid to the tournament's participating players no later than 30 days following the conclusion of said Jai Alai Tournament of Champions Meet.

(5) In addition to the credit authorized in subsection (4), the Jai Alai Tournament of Champions Meet permitholders shall receive a credit against the taxes, otherwise due and payable under s. 550.0951 or s. 550.09511, generated during said permitholders' current regular meet, in an amount not to exceed the aggregate amount of $150,000, which shall be prorated equally between the permitholders, and shall be used ~~utilized~~ by the permitholders for such capital improvements and

313906

extraordinary expenses, including marketing expenses, as may be necessary for the operation of the meet. The determination of the amount to be credited shall be made by the department ~~division~~ upon application of said permitholders.

(6) The permitholder is ~~shall be~~ entitled to said permitholder's pro rata share of the $150,000 tax credit provided in subsection (5) without having to make application, so long as appropriate documentation to substantiate said expenditures thereunder is provided to the department ~~division~~ within 30 days following said Jai Alai Tournament of Champions Meet.

(7) A ~~No~~ Jai Alai Tournament of Champions Meet may not ~~shall~~ exceed 4 days in any state fiscal year, and only ~~no more than~~ one performance may ~~shall~~ be conducted on any one day of the meet. ~~There shall be~~ Only one Jai Alai Tournament of Champions Meet may occur in any state fiscal year.

(8) The department may ~~division is authorized to~~ adopt ~~such~~ rules ~~as are~~ necessary to facilitate the conduct of the Jai Alai Tournament of Champions Meet, including ~~as authorized in this section. Included within this grant of authority shall be the adoption of~~ rules regarding the overall conduct of the tournament so as to ensure the integrity of the event, licensing for participants, commingling of pari-mutuel pools, and audit requirements for tax credits and exemptions.

(9) ~~The provisions of~~ This section prevails ~~shall prevail~~ over any conflicting provisions of this chapter.

Section 38. Subsections (3) and (5) of section 550.334, Florida Statutes, are amended to read:

550.334 Quarter horse racing; substitutions.—

313906

(3) Quarter horses participating in such races must be duly registered by the American Quarter Horse Association, and before each race such horses must be examined and declared in fit condition by a qualified person designated by the department ~~division~~.

(5) Any quarter horse racing permitholder operating under a valid permit issued by the department ~~division~~ is authorized to substitute races of other breeds of horses which are, respectively, registered with the American Paint Horse Association, Appaloosa Horse Club, Arabian Horse Registry of America, Palomino Horse Breeders of America, United States Trotting Association, Florida Cracker Horse Association, or Jockey Club for no more than 50 percent of the quarter horse races during its meet.

Section 39. Subsection (2) of section 550.3345, Florida Statutes, is amended to read:

550.3345 Conversion of quarter horse permit to a limited thoroughbred permit.—

(2) Notwithstanding any other provision of law, the holder of a quarter horse racing permit issued under s. 550.334 may, within 1 year after the effective date of this section, apply to the department ~~division~~ for a transfer of the quarter horse racing permit to a not-for-profit corporation formed under state law to serve the purposes of the state as provided in subsection (1). The board of directors of the not-for-profit corporation must be comprised of 11 members, 4 of whom shall be designated by the applicant, 4 of whom shall be designated by the Florida Thoroughbred Breeders' Association, and 3 of whom shall be designated by the other 8 directors, with at least 1 of these 3

313906

members being an authorized representative of another thoroughbred permitholder in this state. The not-for-profit corporation shall submit an application to the department ~~division~~ for review and approval of the transfer in accordance with s. 550.054. Upon approval of the transfer by the department ~~division~~, and notwithstanding any other provision of law to the contrary, the not-for-profit corporation may, within 1 year after its receipt of the permit, request that the department ~~division~~ convert the quarter horse racing permit to a permit authorizing the holder to conduct pari-mutuel wagering meets of thoroughbred racing. Neither the transfer of the quarter horse racing permit nor its conversion to a limited thoroughbred permit shall be subject to the mileage limitation or the ratification election as set forth under s. 550.054(2) or s. 550.0651. Upon receipt of the request for such conversion, the department ~~division~~ shall timely issue a converted permit. The converted permit and the not-for-profit corporation shall be subject to the following requirements:

(a) All net revenues derived by the not-for-profit corporation under the thoroughbred horse racing permit, after the funding of operating expenses and capital improvements, shall be dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under this chapter; the general promotion of the thoroughbred horse breeding industry; and the care in this state of thoroughbred horses retired from racing.

(b) From December 1 through April 30, no live thoroughbred racing may be conducted under the permit on any day during which another thoroughbred permitholder is conducting live

313906

thoroughbred racing within 125 air miles of the not-for-profit corporation's pari-mutuel facility unless the other thoroughbred permitholder gives its written consent.

(c) After the conversion of the quarter horse racing permit and the issuance of its initial license to conduct pari-mutuel wagering meets of thoroughbred racing, the not-for-profit corporation shall annually apply to the department ~~division~~ for a license pursuant to s. 550.5251(2)-(5).

(d) Racing under the permit may take place only at the location for which the original quarter horse racing permit was issued, which may be leased by the not-for-profit corporation for that purpose; however, the not-for-profit corporation may, without the conduct of any ratification election pursuant to s. 550.054(13) or s. 550.0651, move the location of the permit to another location in the same county provided that such relocation is approved under the zoning and land use regulations of the applicable county or municipality.

(e) A ~~No~~ permit converted under this section may not be transferred ~~is eligible for transfer~~ to another person or entity.

Section 40. Section 550.3355, Florida Statutes, is amended to read:

550.3355 Harness track licenses for summer quarter horse racing.—Any harness track licensed to operate under the provisions of s. 550.375 may make application for, and shall be issued by the department ~~division~~, a license to operate not more than 50 quarter horse racing days during the summer season, which shall extend from July 1 until October 1 of each year. However, this license to operate quarter horse racing for 50

313906

days is in addition to the racing days and dates provided in s. 550.375 for harness racing during the winter seasons; and, it does not affect the right of such licensee to operate harness racing at the track as provided in s. 550.375 during the winter season. All provisions of this chapter governing quarter horse racing not in conflict herewith apply to the operation of quarter horse meetings authorized hereunder, except that all quarter horse racing permitted hereunder shall be conducted at night.

Section 41. Paragraph (a) of subsection (6) and subsections (10) and (13) of section 550.3551, Florida Statutes, are amended to read:

550.3551 Transmission of racing and jai alai information; commingling of pari-mutuel pools.—

(6)(a) A maximum of 20 percent of the total number of races on which wagers are accepted by a greyhound permitholder not located as specified in s. 550.615(6) may be received from locations outside this state. A permitholder may not conduct fewer than eight live races or games on any authorized race day except as provided in this subsection. A thoroughbred permitholder may not conduct fewer than eight live races on any race day without the written approval of the Florida Thoroughbred Breeders' Association and the Florida Horsemen's Benevolent and Protective Association, Inc., unless it is determined by the department that another entity represents a majority of the thoroughbred racehorse owners and trainers in the state. A harness permitholder may conduct fewer than eight live races on any authorized race day, except that such permitholder must conduct a full schedule of live racing during

313906

its race meet consisting of at least eight live races per authorized race day for at least 100 days. Any harness horse permitholder that during the preceding racing season conducted a full schedule of live racing may, at any time during its current race meet, receive full-card broadcasts of harness horse races conducted at harness racetracks outside this state at the harness track of the permitholder and accept wagers on such harness races. With specific authorization from the department ~~division~~ for special racing events, a permitholder may conduct fewer than eight live races or games when the permitholder also broadcasts out-of-state races or games. The department ~~division~~ may not grant more than two such exceptions a year for a permitholder in any 12-month period, and those two exceptions may not be consecutive.

(10) The department ~~division~~ may adopt rules necessary to facilitate commingling of pari-mutuel pools, to ensure the proper calculation of payoffs in circumstances in which different commission percentages are applicable and to regulate the distribution of net proceeds between the horse track and, in this state, the horsemen’s associations.

(13) This section does not prohibit the commingling of national pari-mutuel pools by a totalisator company that is licensed under this chapter. Such commingling of national pools is subject to department ~~division~~ review and approval and must be performed pursuant to ~~in accordance with~~ rules adopted by the department ~~division~~ to ensure accurate calculation and distribution of the pools.

Section 42. Subsections (3), (4), and (5) of section 550.3615, Florida Statutes, are amended to read:

313906

550.3615 Bookmaking on the grounds of a permitholder; penalties; reinstatement; duties of track employees; penalty; exceptions.—

(3) Any person who has been convicted of bookmaking in this state or any other state of the United States or any foreign country shall be denied admittance to and may ~~shall~~ not attend any racetrack or fronton in this state during its racing seasons or operating dates, including any practice or preparational days, for a period of 2 years after the date of conviction or the date of final appeal. Following the conclusion of the period of ineligibility, the department ~~director of the division~~ may authorize the reinstatement of an individual following a hearing on readmittance. Any such person who knowingly violates this subsection commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) If the activities of a person show that this law is being violated, and such activities are either witnessed or are common knowledge by any track or fronton employee, it is the duty of that employee to bring the matter to the immediate attention of the permitholder, manager, or her or his designee, who shall notify a law enforcement agency having jurisdiction. Willful failure on the part of any track or fronton employee to comply with ~~the provisions of~~ this subsection is a ground for the department ~~division~~ to suspend or revoke that employee's license for track or fronton employment.

(5) Each permittee shall display, in conspicuous places at a track or fronton and in all race and jai alai daily programs, a warning to all patrons concerning the prohibition and penalties of bookmaking contained in this section and s. 849.25.

313906

The department ~~division~~ shall adopt rules concerning the uniform size of all warnings and the number of placements throughout a track or fronton. Failure on the part of the permittee to display such warnings may result in the imposition of a $500 fine by the department ~~division~~ for each offense.

Section 43. Subsections (2) and (3) of section 550.375, Florida Statutes, are amended to read:

550.375 Operation of certain harness tracks.—

(2) Any permittee or licensee authorized under this section to transfer the location of its permit may conduct harness racing only between the hours of 7 p.m. and 2 a.m. A permit so transferred applies only to the locations provided in this section. The provisions of this chapter which prohibit the location and operation of a licensed harness track permittee and licensee within 100 air miles of the location of a racetrack authorized to conduct racing under this chapter and which prohibit the department ~~division~~ from granting any permit to a harness track at a location in the area in which there are three horse tracks located within 100 air miles thereof do not apply to a licensed harness track that is required by the terms of this section to race between the hours of 7 p.m. and 2 a.m.

(3) A permit may not be issued by the department ~~division~~ for the operation of a harness track within 75 air miles of a location of a harness track licensed and operating under this chapter.

Section 44. Section 550.495, Florida Statutes, is amended to read:

550.495 Totalisator licensing.—

(1) A totalisator may not be operated at a pari-mutuel

313906

facility in this state, or at a facility located in or out of this state which is used as the primary totalisator for a race or game conducted in this state, unless the totalisator company possesses a business license issued by the department ~~division~~.

(2)(a) Each totalisator company must apply to the department ~~division~~ for an annual business license. The application must include such information as the department ~~division~~ by rule requires.

(b) As a part of its license application, each totalisator company must agree in writing to pay to the department ~~division~~ an amount equal to the loss of any state revenues from missed or canceled races, games, or performances due to acts of the totalisator company or its agents or employees or failures of the totalisator system, except for circumstances beyond the control of the totalisator company or agent or employee, as determined by the department ~~division~~.

(c) Each totalisator company must file with the department ~~division~~ a performance bond, acceptable to the department ~~division~~, in the sum of $250,000 issued by a surety approved by the department ~~division~~ or must file proof of insurance, acceptable to the department ~~division~~, against financial loss in the amount of $250,000, insuring the state against such a revenue loss.

(d) In the event of a loss of state tax revenues, the department ~~division~~ shall determine:

1. The estimated revenue lost as a result of missed or canceled races, games, or performances;

2. The number of races, games, or performances which is practicable for the permitholder to conduct in an attempt to

mitigate the revenue loss; and

3. The amount of the revenue loss which the makeup races, games, or performances will not recover and for which the totalisator company is liable.

(e) Upon the making of such determinations, the department ~~division~~ shall issue to the totalisator company and to the affected permitholder an order setting forth the determinations of the department ~~division~~.

(f) If the order is contested by either the totalisator company or any affected permitholder, ~~the provisions of~~ chapter 120 applies ~~apply~~. If the totalisator company contests the order on the grounds that the revenue loss was due to circumstances beyond its control, the totalisator company has the burden of proving that circumstances vary in fact beyond its control. For purposes of this paragraph, strikes and acts of God are beyond the control of the totalisator company.

(g) Upon the failure of the totalisator company to make the payment found to be due the state, the department ~~division~~ may cause the forfeiture of the bond or may proceed against the insurance contract, and the proceeds of the bond or contract shall be deposited into the Pari-mutuel Wagering Trust Fund. If that bond was not posted or insurance obtained, the department ~~division~~ may proceed against any assets of the totalisator company to collect the amounts due under this subsection.

(3) If the applicant meets the requirements of this section and department ~~division~~ rules and pays the license fee, the department ~~division~~ shall issue the license.

(4) Each totalisator company shall conduct operations in accordance with rules adopted by the department ~~division~~, in

313906

such form, content, and frequency as the department ~~division~~ by rule determines.

(5) The department ~~division~~ and its representatives may enter and inspect any area of the premises of a licensed totalisator company, and may examine totalisator records, during the licensee's regular business or operating hours.

Section 45. Section 550.505, Florida Statutes, is amended to read:

550.505 Nonwagering permits.—

(1)(a) Except as provided in this section, permits and licenses issued by the department ~~division~~ are intended to be used for pari-mutuel wagering operations in conjunction with horseraces, dograces, or jai alai performances.

(b) Subject to the requirements of this section, the department may ~~division is authorized to~~ issue permits for the conduct of horseracing meets without pari-mutuel wagering or any other form of wagering being conducted in conjunction therewith. Such permits shall be known as nonwagering permits and may be issued only for horseracing meets. A horseracing permitholder need not obtain an additional permit from the department ~~division~~ for conducting nonwagering racing under this section, but must apply to the department ~~division~~ for the issuance of a license under this section. The holder of a nonwagering permit is prohibited from conducting pari-mutuel wagering or any other form of wagering in conjunction with racing conducted under the permit. ~~Nothing in~~ This subsection does not prohibit ~~prohibits~~ horseracing for any stake, purse, prize, or premium.

(c) The holder of a nonwagering permit is exempt from ~~the provisions of~~ s. 550.105 and is exempt from the imposition of

313906

daily license fees and admission tax.

(2)(a) Any person not prohibited from holding any type of pari-mutuel permit under s. 550.1815 may ~~shall be allowed to~~ apply to the department ~~division~~ for a nonwagering permit. The applicant must demonstrate that the location or locations where the nonwagering permit will be used are available for such use and that the applicant has the financial ability to satisfy the reasonably anticipated operational expenses of the first racing year following final issuance of the nonwagering permit. If the racing facility is already built, the application must contain a statement, with reasonable supporting evidence, that the nonwagering permit will be used for horseracing within 1 year after the date on which it is granted. If the facility is not already built, the application must contain a statement, with reasonable supporting evidence, that substantial construction will be started within 1 year after the issuance of the nonwagering permit.

(b) The department ~~division~~ may conduct an eligibility investigation to determine if the applicant meets the requirements of paragraph (a).

(3)(a) Upon receipt of a nonwagering permit, the permitholder must apply to the department ~~division~~ before June 1 of each year for an annual nonwagering license for the next succeeding calendar year. Such application must set forth the days and locations at which the permitholder will conduct nonwagering horseracing and must indicate any changes in ownership or management of the permitholder occurring since the date of application for the prior license.

(b) On or before August 1 of each year, the department

313906

~~division~~ shall issue a license authorizing the nonwagering permitholder to conduct nonwagering horseracing during the succeeding calendar year during the period and for the number of days set forth in the application, subject to all other provisions of this section.

(c) The department ~~division~~ may conduct an eligibility investigation to determine the qualifications of any new ownership or management interest in the permit.

(4) Upon the approval of racing dates by the department ~~division~~, the department ~~division~~ shall issue an annual nonwagering license to the nonwagering permitholder.

(5) Only horses registered with an established breed registration organization, which organization shall be approved by the department ~~division~~, shall be raced at any race meeting authorized by this section.

(6) The department ~~division~~ may order any person participating in a nonwagering meet to cease and desist from participating in such meet if the department ~~division~~ determines the person to be not of good moral character in accordance with s. 550.1815. The department ~~division~~ may order the operators of a nonwagering meet to cease and desist from operating the meet if the department ~~division~~ determines the meet is being operated for any illegal purpose.

Section 46. Subsection (1) of section 550.5251, Florida Statutes, is amended to read:

550.5251 Florida thoroughbred racing; certain permits; operating days.—

(1) Each thoroughbred permitholder shall annually, during the period commencing December 15 of each year and ending

313906

January 4 of the following year, file in writing with the department ~~division~~ its application to conduct one or more thoroughbred racing meetings during the thoroughbred racing season commencing on the following July 1. Each application shall specify the number and dates of all performances that the permitholder intends to conduct during that thoroughbred racing season. On or before March 15 of each year, the department ~~division~~ shall issue a license authorizing each permitholder to conduct performances on the dates specified in its application. Up to February 28 of each year, each permitholder may request and shall be granted changes in its authorized performances; but thereafter, as a condition precedent to the validity of its license and its right to retain its permit, each permitholder must operate the full number of days authorized on each of the dates set forth in its license.

Section 47. Subsection (3) of section 550.625, Florida Statutes, is amended to read:

550.625 Intertrack wagering; purses; breeders' awards.—If a host track is a horse track:

(3) The payment to a breeders' organization shall be combined with any other amounts received by the respective breeders' and owners' associations as so designated. Each breeders' and owners' association receiving these funds shall be allowed to withhold the same percentage as set forth in s. 550.2625 to be used for administering the payment of awards and for the general promotion of their respective industries. If the total combined amount received for thoroughbred breeders' awards exceeds 15 percent of the purse required to be paid under subsection (1), the breeders' and owners' association, as so

313906

designated, notwithstanding any other provision of law, shall submit a plan to the department ~~division~~ for approval which would use the excess funds in promoting the breeding industry by increasing the purse structure for Florida-breds. Preference shall be given to the track generating such excess.

Section 48. Subsection (5) and paragraph (g) of subsection (9) of section 550.6305, Florida Statutes, are amended to read:

550.6305 Intertrack wagering; guest track payments; accounting rules.—

(5) The department ~~division~~ shall adopt rules providing an expedient accounting procedure for the transfer of the pari-mutuel pool in order to properly account for payment of state taxes, payment to the guest track, payment to the host track, payment of purses, payment to breeders' associations, payment to horsemen's associations, and payment to the public.

(9) A host track that has contracted with an out-of-state horse track to broadcast live races conducted at such out-of-state horse track pursuant to s. 550.3551(5) may broadcast such out-of-state races to any guest track and accept wagers thereon in the same manner as is provided in s. 550.3551.

(g)1. Any thoroughbred permitholder which accepts wagers on a simulcast signal must make the signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345.

2. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in s.

313906

550.615(6). Such guest permitholders are authorized to accept wagers on such simulcast signal, notwithstanding any other provision of this chapter to the contrary.

3. Any thoroughbred permitholder which accepts wagers on a simulcast signal received after 6 p.m. must make such signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, including any permitholder located as specified in s. 550.615(9). Such guest permitholders are authorized to accept wagers on such simulcast signals for a number of performances not to exceed that which constitutes a full schedule of live races for a quarter horse permitholder pursuant to s. 550.002(10) ~~(11)~~, notwithstanding any other provision of this chapter to the contrary, except that the restrictions provided in s. 550.615(9)(a) apply to wagers on such simulcast signals.

No thoroughbred permitholder shall be required to continue to rebroadcast a simulcast signal to any in-state permitholder if the average per performance gross receipts returned to the host permitholder over the preceding 30-day period were less than $100. Subject to the provisions of s. 550.615(4), as a condition of receiving rebroadcasts of thoroughbred simulcast signals under this paragraph, a guest permitholder must accept intertrack wagers on all live races conducted by all then-operating thoroughbred permitholders.

Section 49. Subsections (1) and (2) of section 550.6308, Florida Statutes, are amended to read:

550.6308 Limited intertrack wagering license.—In recognition of the economic importance of the thoroughbred

313906

breeding industry to this state, its positive impact on tourism, and of the importance of a permanent thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.

(1) Upon application to the department ~~division~~ on or before January 31 of each year, any person that is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01, that has conducted at least 15 days of thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years, and that has conducted at least 1 day of nonwagering thoroughbred racing in this state, with a purse structure of at least $250,000 per year for 2 consecutive years before such application, shall be issued a license, subject to the conditions set forth in this section, to conduct intertrack wagering at such a permanent sales facility during the following periods:

(a) Up to 21 days in connection with thoroughbred sales;

(b) Between November 1 and May 8;

(c) Between May 9 and October 31 at such times and on such days as any thoroughbred, jai alai, or a greyhound permitholder in the same county is not conducting live performances; provided that any such permitholder may waive this requirement, in whole or in part, and allow the licensee under this section to conduct intertrack wagering during one or more of the permitholder’s live performances; and

(d) During the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders’ Cup Meet that is

313906

conducted before November 1 and after May 8.

No more than one such license may be issued, and no such license may be issued for a facility located within 50 miles of any thoroughbred permitholder's track.

(2) If more than one application is submitted for such license, the department ~~division~~ shall determine which applicant shall be granted the license. In making its determination, the department ~~division~~ shall grant the license to the applicant demonstrating superior capabilities, as measured by the length of time the applicant has been conducting thoroughbred sales within this state or elsewhere, the applicant's total volume of thoroughbred horse sales, within this state or elsewhere, the length of time the applicant has maintained a permanent thoroughbred sales facility in this state, and the quality of the facility.

Section 50. Subsection (2) of section 550.70, Florida Statutes, is amended to read:

550.70 Jai alai general provisions; chief court judges required; extension of time to construct fronton; amateur jai alai contests permitted under certain conditions; playing days' limitations; locking of pari-mutuel machines.—

(2) The time within which the holder of a ratified permit for jai alai or pelota has to construct and complete a fronton may be extended by the department ~~division~~ for a period of 24 months after the date of the issuance of the permit, anything to the contrary in any statute notwithstanding.

Section 51. Subsection (3) of section 550.902, Florida Statutes, is amended to read:

313906

550.902 Purposes.—The purposes of this compact are to:

(3) Authorize the Department of Gaming Control ~~Business and Professional Regulation~~ to participate in this compact.

Section 52. Subsection (1) of section 550.907, Florida Statutes, is amended to read:

550.907 Compact committee.—

(1) There is created an interstate governmental entity to be known as the "compact committee," which shall be composed of one official from the racing commission, or the equivalent thereof, in each party state who shall be appointed, serve, and be subject to removal in accordance with the laws of the party state that she or he represents. The official from Florida shall be appointed by the Gaming Commission ~~Secretary of Business and Professional Regulation~~. Pursuant to the laws of her or his party state, each official shall have the assistance of her or his state's racing commission, or the equivalent thereof, in considering issues related to licensing of participants in pari-mutuel wagering and in fulfilling her or his responsibilities as the representative from her or his state to the compact committee.

Section 53. Subsections (1), (3), (10), and (11) of section 551.102, Florida Statutes, are amended, present subsection (1) of that section is renumbered as subsection (3), and a new subsection (1) is added to that section, to read:

551.102 Definitions.—As used in this chapter, the term:

(1) "Department" means the Department of Gaming Control.

(3) ~~(1)~~ "Distributor" means any person who sells, leases, or offers or otherwise provides, distributes, or services any slot machine or associated equipment for use or play of slot machines

313906

in this state. A manufacturer may be a distributor within the state.

~~(3) "Division" means the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.~~

(10) "Slot machine license" means a license issued by the department ~~division~~ authorizing a pari-mutuel permitholder to place and operate slot machines as provided by s. 23, Art. X of the State Constitution, the provisions of this chapter, and department ~~division~~ rules.

(11) "Slot machine licensee" means a pari-mutuel permitholder who holds a license issued by the department ~~division~~ pursuant to this chapter which ~~that~~ authorizes such person to possess a slot machine within facilities specified in s. 23, Art. X of the State Constitution and allows slot machine gaming.

Section 54. Section 551.103, Florida Statutes, is amended to read:

551.103 Powers and duties of the department ~~division~~ and law enforcement.—

(1) The department ~~division~~ shall adopt, pursuant to the provisions of ss. 120.536(1) and 120.54, all rules necessary to implement, administer, and regulate slot machine gaming as authorized in this chapter. Such rules must include:

(a) Procedures for applying for a slot machine license and renewal of a slot machine license.

(b) Technical requirements and the qualifications contained in this chapter which ~~that~~ are necessary to receive a slot machine license or slot machine occupational license.

(c) Procedures to scientifically test and technically

313906

evaluate slot machines for compliance with this chapter. The department ~~division~~ may contract with an independent testing laboratory to conduct any necessary testing under this section. The independent testing laboratory must have a national reputation and be ~~which is~~ demonstrably competent and qualified to scientifically test and evaluate slot machines for compliance with this chapter and to otherwise perform the functions assigned to it in this chapter. An independent testing laboratory may ~~shall~~ not be owned or controlled by a licensee. The use of an independent testing laboratory for any purpose related to the conduct of slot machine gaming by a licensee under this chapter must ~~shall~~ be made from a list of one or more laboratories approved by the department ~~division~~.

(d) Procedures relating to slot machine revenues, including verifying and accounting for such revenues, auditing, and collecting taxes and fees consistent with this chapter.

(e) Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to slot machine gaming which ~~that~~ allow the department ~~division~~ and the Department of Law Enforcement to audit the operation, financial data, and program information of a slot machine licensee, as required by the department ~~division~~ or the Department of Law Enforcement, and provide the department ~~division~~ and the Department of Law Enforcement with the ability to monitor, at any time on a real-time basis, wagering patterns, payouts, tax collection, and compliance with any rules adopted by the department ~~division~~ for the regulation and control of slot machines operated under this chapter. Such continuous and complete access, at any time on a real-time basis, shall include

313906

the ability of ~~either~~ the department ~~division~~ or the Department of Law Enforcement to suspend play immediately on particular slot machines if monitoring of the facilities-based computer system indicates possible tampering or manipulation of those slot machines or the ability to suspend play immediately of the entire operation if the tampering or manipulation is of the computer system itself. The department ~~division~~ shall notify the Department of Law Enforcement or the Department of Law Enforcement shall notify the division, as appropriate, whenever there is a suspension of play under this paragraph. The department ~~division~~ and the Department of Law Enforcement shall exchange such information necessary for and cooperate in the investigation of the circumstances requiring suspension of play under this paragraph.

(f) Procedures for requiring each licensee at his or her own cost and expense to supply the department ~~division~~ with a bond having the penal sum of $2 million payable to the Governor and his or her successors in office for each year of the licensee's slot machine operations. Any bond shall be issued by a surety or sureties approved by the department ~~division~~ and the Chief Financial Officer, conditioned to faithfully make the payments to the Chief Financial Officer in his or her capacity as treasurer of the department ~~division~~. The licensee shall be required to keep its books and records and make reports as provided in this chapter and to conduct its slot machine operations in conformity with this chapter and all other provisions of law. Such bond shall be separate and distinct from the bond required in s. 550.125.

(g) Procedures for requiring licensees to maintain

313906

specified records and submit any data, information, record, or report, including financial and income records, required by this chapter or determined by the department ~~division~~ to be necessary to the proper implementation and enforcement of this chapter.

(h) A requirement that the payout percentage of a slot machine be no less than 85 percent.

(i) Minimum standards for security of the facilities, including floor plans, security cameras, and other security equipment.

(j) Procedures for requiring slot machine licensees to implement and establish drug-testing programs for all slot machine occupational licensees.

(2) The department ~~division~~ shall conduct such investigations necessary to fulfill its responsibilities under the provisions of this chapter.

(3) The Department of Law Enforcement and local law enforcement agencies ~~shall~~ have concurrent jurisdiction to investigate criminal violations of this chapter and may investigate any other criminal violation of law occurring at the facilities of a slot machine licensee, and such investigations may be conducted in conjunction with the appropriate state attorney.

(4)(a) The department ~~division~~, the Department of Law Enforcement, and local law enforcement agencies shall have unrestricted access to the slot machine licensee's facility at all times and shall require of each slot machine licensee strict compliance with the laws of this state relating to the transaction of such business. The department ~~division~~, the Department of Law Enforcement, and local law enforcement

313906

agencies may:

1. Inspect and examine premises where slot machines are offered for play.

2. Inspect slot machines and related equipment and supplies.

(b) In addition, the department ~~division~~ may:

1. Collect taxes, assessments, fees, and penalties.

2. Deny, revoke, suspend, or place conditions on the license of a person who violates any provision of this chapter or rule adopted pursuant thereto.

(5) The department ~~division~~ shall revoke or suspend the license of any person who is no longer qualified or who is found, after receiving a license, to have been unqualified at the time of application for the license.

(6) This section does not:

(a) Prohibit the Department of Law Enforcement or any law enforcement authority whose jurisdiction includes a licensed facility from conducting investigations of criminal activities occurring at the facility of the slot machine licensee;

(b) Restrict access to the slot machine licensee's facility by the Department of Law Enforcement or any local law enforcement authority whose jurisdiction includes the slot machine licensee's facility; or

(c) Restrict access by the Department of Law Enforcement or local law enforcement authorities to information and records necessary to the investigation of criminal activity which ~~that~~ are contained within the slot machine licensee's facility.

Section 55. Section 551.104, Florida Statutes, is amended to read:

313906

551.104 License to conduct slot machine gaming.—

(1) Upon application and a finding by the department ~~division~~ after investigation that the application is complete and the applicant is qualified and payment of the initial license fee, the department ~~division~~ may issue a license to conduct slot machine gaming in the designated slot machine gaming area of the eligible facility. Once licensed, slot machine gaming may be conducted subject to the requirements of this chapter and rules adopted pursuant thereto.

(2) An application may be approved by the department ~~division~~ only after the voters of the county where the applicant's facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county as specified in s. 23, Art. X of the State Constitution.

(3) A slot machine license may be issued only to a licensed pari-mutuel permitholder, and slot machine gaming may be conducted only at the eligible facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities.

(4) As a condition of licensure and to maintain continued authority for the conduct of slot machine gaming, the slot machine licensee shall:

(a) Continue to be in compliance with this chapter.

(b) Continue to be in compliance with chapter 550, where applicable, and maintain the pari-mutuel permit and license in good standing pursuant to the provisions of chapter 550.

~~Notwithstanding any contrary provision of law and in order to expedite the operation of slot machines at eligible facilities, any eligible facility shall be entitled within 60 days after the~~

313906

~~effective date of this act to amend its 2006-2007 pari-mutuel wagering operating license issued by the division under ss. 550.0115 and 550.01215. The division shall issue a new license to the eligible facility to effectuate any approved change.~~

(c) Conduct no fewer than a full schedule of live racing or games as defined in s. 550.002(10) ~~(11)~~. A permitholder's responsibility to conduct such number of live races or games shall be reduced by the number of races or games that could not be conducted due to the direct result of fire, war, hurricane, or other disaster or event beyond the control of the permitholder.

(d) Upon approval of any changes relating to the pari-mutuel permit by the department ~~division~~, be responsible for providing appropriate current and accurate documentation on a timely basis to the department ~~division~~ in order to continue the slot machine license in good standing. Changes in ownership or interest of a slot machine license of 5 percent or more of the stock or other evidence of ownership or equity in the slot machine license or any parent corporation or other business entity that in any way owns or controls the slot machine license shall be approved by the department ~~division~~ prior to such change, unless the owner is an existing holder of that license who was previously approved by the department ~~division~~. Changes in ownership or interest of a slot machine license of less than 5 percent, unless such change results in a cumulative total of 5 percent or more, shall be reported to the department ~~division~~ within 20 days after the change. The department ~~division~~ may then conduct an investigation to ensure that the license is properly updated to show the change in ownership or interest. No

313906

reporting is required if the person is holding 5 percent or less equity or securities of a corporate owner of the slot machine licensee that has its securities registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and if such corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act or if the securities of the corporation or entity are regularly traded on an established securities market in the United States. A change in ownership or interest of less than 5 percent which results in a cumulative ownership or interest of 5 percent or more must ~~shall~~ be approved by the department before ~~division prior to~~ such change unless the owner is an existing holder of the license who was previously approved by the department ~~division~~.

(e) Allow the department ~~division~~ and the Department of Law Enforcement unrestricted access to and right of inspection of facilities of a slot machine licensee in which any activity relative to the conduct of slot machine gaming is conducted.

(f) Ensure that the facilities-based computer system that the licensee will use for operational and accounting functions of the slot machine facility is specifically structured to facilitate regulatory oversight. The facilities-based computer system shall be designed to provide the department ~~division~~ and the Department of Law Enforcement with the ability to monitor, at any time on a real-time basis, the wagering patterns, payouts, tax collection, and such other operations as necessary to determine whether the facility is in compliance with statutory provisions and rules adopted by the department ~~division~~ for the regulation and control of slot machine gaming.

313906

The department ~~division~~ and the Department of Law Enforcement shall have complete and continuous access to this system. Such access shall include the ability of ~~either~~ the department ~~division~~ or the Department of Law Enforcement to suspend play immediately on particular slot machines if monitoring of the system indicates possible tampering or manipulation of those slot machines or the ability to suspend play immediately of the entire operation if the tampering or manipulation is of the computer system itself. The computer system shall be reviewed and approved by the department ~~division~~ to ensure necessary access, security, and functionality. The department ~~division~~ may adopt rules to provide for the approval process.

(g) Ensure that each slot machine is protected from manipulation or tampering to affect the random probabilities of winning plays. The department ~~division~~ or the Department of Law Enforcement may ~~shall have the authority to~~ suspend play upon reasonable suspicion of any manipulation or tampering. When play has been suspended on any slot machine, the department ~~division~~ or the Department of Law Enforcement may examine any slot machine to determine whether the machine has been tampered with or manipulated and whether the machine should be returned to operation.

(h) Submit a security plan, including the facilities' floor plan, the locations of security cameras, and a listing of all security equipment that is capable of observing and electronically recording activities being conducted in the facilities of the slot machine licensee. The security plan must meet the minimum security requirements as determined by the department ~~division~~ under s. 551.103(1)(i) and be implemented

313906

prior to operation of slot machine gaming. The slot machine licensee's facilities must adhere to the security plan at all times. Any changes to the security plan must be submitted by the licensee to the department before ~~division prior to~~ implementation. The department ~~division~~ shall furnish copies of the security plan and changes in the plan to the Department of Law Enforcement.

(i) Create and file with the department ~~division~~ a written policy for:

1. Creating opportunities to purchase from vendors in this state, including minority vendors.

2. Creating opportunities for employment of residents of this state, including minority residents.

3. Ensuring opportunities for construction services from minority contractors.

4. Ensuring that opportunities for employment are offered on an equal, nondiscriminatory basis.

5. Training for employees on responsible gaming and working with a compulsive or addictive gambling prevention program to further its purposes as provided for in s. 551.118.

6. The implementation of a drug-testing program that includes, but is not limited to, requiring each employee to sign an agreement that he or she understands that the slot machine facility is a drug-free workplace.

The slot machine licensee shall use the Internet-based job-listing system of the Agency for Workforce Innovation in advertising employment opportunities. ~~Beginning in June 2007,~~ Each slot machine licensee shall provide an annual report to the

department ~~division~~ containing information indicating compliance with this paragraph in regard to minority persons.

(j) Ensure that the payout percentage of a slot machine gaming facility is at least 85 percent.

(5) A slot machine license is not transferable.

(6) A slot machine licensee shall keep and maintain permanent daily records of its slot machine operation and shall maintain such records for a period of not less than 5 years. These records must include all financial transactions and contain sufficient detail to determine compliance with the requirements of this chapter. All records shall be available for audit and inspection by the department ~~division~~, the Department of Law Enforcement, or other law enforcement agencies during the licensee's regular business hours.

(7) A slot machine licensee shall file with the department ~~division~~ a monthly report containing the required records of such slot machine operation. The required reports shall be submitted on forms prescribed by the department ~~division~~ and shall be due at the same time as the monthly pari-mutuel reports are due to the department ~~division~~, and the reports shall be deemed public records once filed.

(8) A slot machine licensee shall file with the department ~~division~~ an audit of the receipt and distribution of all slot machine revenues provided by an independent certified public accountant verifying compliance with all financial and auditing provisions of this chapter and the associated rules adopted under this chapter. The audit must include verification of compliance with all statutes and rules regarding all required records of slot machine operations. Such audit shall be filed

313906

within 60 days after the completion of the permitholder's pari-mutuel meet.

(9) The department ~~division~~ may share any information with the Department of Law Enforcement, any other law enforcement agency having jurisdiction over slot machine gaming or pari-mutuel activities, or any other state or federal law enforcement agency the department ~~division~~ or the Department of Law Enforcement deems appropriate. Any law enforcement agency having jurisdiction over slot machine gaming or pari-mutuel activities may share any information obtained or developed by it with the department ~~division~~.

(10)(a)1. No slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of thoroughbred racing unless the applicant has on file with the department ~~division~~ a binding written agreement between the applicant and the Florida Horsemen's Benevolent and Protective Association, Inc., governing the payment of purses on live thoroughbred races conducted at the licensee's pari-mutuel facility. In addition, no slot machine license or renewal thereof shall be issued to such an applicant unless the applicant has on file with the department ~~division~~ a binding written agreement between the applicant and the Florida Thoroughbred Breeders' Association, Inc., governing the payment of breeders', stallion, and special racing awards on live thoroughbred races conducted at the licensee's pari-mutuel facility. The agreement governing purses and the agreement governing awards may direct the payment of such purses and awards from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida

313906

law. All purses and awards shall be subject to the terms of chapter 550. All sums for breeders', stallion, and special racing awards shall be remitted monthly to the Florida Thoroughbred Breeders' Association, Inc., for the payment of awards subject to the administrative fee authorized in s. 550.2625(3).

2. No slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing unless the applicant has on file with the department ~~division~~ a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses are ~~shall be~~ subject to the terms of chapter 550.

(b) The department ~~division~~ shall suspend a slot machine license if one or more of the agreements required under paragraph (a) are terminated or otherwise cease to operate or if the department ~~division~~ determines that the licensee is materially failing to comply with the terms of such an agreement. Any such suspension shall take place in accordance with chapter 120.

(c)1. If an agreement required under paragraph (a) cannot be reached before ~~prior to~~ the initial issuance of the slot machine license, either party may request arbitration or, in the

313906

case of a renewal, if an agreement required under paragraph (a) is not in place 120 days prior to the scheduled expiration date of the slot machine license, the applicant shall immediately ask the American Arbitration Association to furnish a list of 11 arbitrators, each of whom shall have at least 5 years of commercial arbitration experience and no financial interest in or prior relationship with any of the parties or their affiliated or related entities or principals. Each required party to the agreement shall select a single arbitrator from the list provided by the American Arbitration Association within 10 days of receipt, and the individuals so selected shall choose one additional arbitrator from the list within the next 10 days.

2. If an agreement required under paragraph (a) is not in place 60 days after the request under subparagraph 1. in the case of an initial slot machine license or, in the case of a renewal, 60 days before ~~prior to~~ the scheduled expiration date of the slot machine license, the matter shall be immediately submitted to mandatory binding arbitration to resolve the disagreement between the parties. The three arbitrators selected pursuant to subparagraph 1. shall constitute the panel that shall arbitrate the dispute between the parties pursuant to the American Arbitration Association Commercial Arbitration Rules and chapter 682.

3. At the conclusion of the proceedings, which shall be no later than 90 days after the request under subparagraph 1. in the case of an initial slot machine license or, in the case of a renewal, 30 days before ~~prior to~~ the scheduled expiration date of the slot machine license, the arbitration panel shall present to the parties a proposed agreement that the majority of the

313906

panel believes equitably balances the rights, interests, obligations, and reasonable expectations of the parties. The parties shall immediately enter into such agreement, which shall satisfy the requirements of paragraph (a) and permit issuance of the pending annual slot machine license or renewal. The agreement produced by the arbitration panel under this subparagraph shall be effective until the last day of the license or renewal period or until the parties enter into a different agreement. Each party shall pay its respective costs of arbitration and shall pay one-half of the costs of the arbitration panel, unless the parties otherwise agree. If the agreement produced by the arbitration panel under this subparagraph remains in place 120 days prior to the scheduled issuance of the next annual license renewal, then the arbitration process established in this paragraph will begin again.

4. If ~~In the event that neither of~~ the agreements required under subparagraph (a)1. or the agreement required under subparagraph (a)2. are not in place by the deadlines established in this paragraph, arbitration regarding each agreement shall ~~will~~ proceed independently, with separate lists of arbitrators, arbitration panels, arbitration proceedings, and resulting agreements.

5. With respect to the agreements required under paragraph (a) governing the payment of purses, the arbitration and resulting agreement called for under this paragraph shall be limited to the payment of purses from slot machine revenues only.

(d) If any provision of this subsection or its application

313906

to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subsection or chapter which can be given effect without the invalid provision or application, and to this end the provisions of this subsection are severable.

Section 56. Section 551.1045, Florida Statutes, is amended to read:

551.1045 Temporary licenses.—

(1) Notwithstanding any provision of s. 120.60 to the contrary, the department ~~division~~ may issue a temporary occupational license upon the receipt of a complete application from the applicant and a determination that the applicant has not been convicted of or had adjudication withheld on any disqualifying criminal offense. The temporary occupational license remains valid until such time as the department ~~division~~ grants an occupational license or notifies the applicant of its intended decision to deny the applicant a license pursuant to the provisions of s. 120.60. The department ~~division~~ shall adopt rules to administer this subsection. However, not more than one temporary license may be issued for any person in any year.

(2) A temporary license issued under this section is nontransferable.

Section 57. Subsection (3) of section 551.105, Florida Statutes, is amended to read:

551.105 Slot machine license renewal.—

(3) Upon determination by the department ~~division~~ that the application for renewal is complete and qualifications have been met, including payment of the renewal fee, the slot machine license shall be renewed annually.

313906

Section 58. Section 551.106, Florida Statutes, is amended to read:

551.106 License fee; tax rate; penalties.—

(1) LICENSE FEE.—

~~(a)~~ Upon submission of the initial application for a slot machine license and annually thereafter, on the anniversary date of the issuance of the initial license, the licensee must pay to the department ~~division~~ a nonrefundable license fee of $3 million for the succeeding 12 months of licensure. In the 2010-2011 fiscal year, the licensee must pay the department ~~division~~ a nonrefundable license fee of $2.5 million for the succeeding 12 months of licensure. In the 2011-2012 fiscal year and for every fiscal year thereafter, the licensee must pay the department ~~division~~ a nonrefundable license fee of $2 million for the succeeding 12 months of licensure. The license fee shall be deposited into the Pari-mutuel Wagering Trust Fund ~~of the Department of Business and Professional Regulation~~ to be used by the department ~~division~~ and the Department of Law Enforcement for investigations, regulation of slot machine gaming, and enforcement of slot machine gaming provisions under this chapter. These payments shall be accounted for separately from taxes or fees paid pursuant to ~~the provisions of~~ chapter 550.

~~(b) Prior to January 1, 2007, the division shall evaluate the license fee and shall make recommendations to the President of the Senate and the Speaker of the House of Representatives regarding the optimum level of slot machine license fees in order to adequately support the slot machine regulatory program.~~

(2) TAX ON SLOT MACHINE REVENUES.—

(a) The tax rate on slot machine revenues at each facility

313906

shall be 35 percent. If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade Counties is less than the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine licensee shall pay to the state within 45 days after the end of the state fiscal year a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year. Each licensee's pro rata share shall be an amount determined by dividing the number 1 by the number of facilities licensed to operate slot machines during the applicable fiscal year, regardless of whether the facility is operating such machines.

(b) The slot machine revenue tax imposed by this section shall be paid to the department ~~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 shall also be transferred to the Educational Enhancement Trust Fund.

(c)1. Funds transferred to the Educational Enhancement Trust Fund under paragraph (b) shall be used to supplement public education funding statewide.

2. If necessary to comply with any covenant established pursuant to s. 1013.68(4), s. 1013.70(1), or s. 1013.737(3), funds transferred to the Educational Enhancement Trust Fund under paragraph (b) shall first be available to pay debt service

313906

on lottery bonds issued to fund school construction in the event lottery revenues are insufficient for such purpose or to satisfy debt service reserve requirements established in connection with lottery bonds. Moneys available pursuant to this subparagraph are subject to annual appropriation by the Legislature.

(3) PAYMENT AND DISPOSITION OF TAXES.—Payment for the tax on slot machine revenues imposed by this section shall be paid to the department ~~division~~. The department ~~division~~ shall deposit these sums with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund. The slot machine licensee shall remit to the department ~~division~~ payment for the tax on slot machine revenues. Such payments shall be remitted by 3 p.m. Wednesday of each week for taxes imposed and collected for the preceding week ending on Sunday. Beginning on July 1, 2012, the slot machine licensee shall remit to the department ~~division~~ payment for the tax on slot machine revenues by 3 p.m. on the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments shall be remitted by 3 p.m. the first Monday following the weekend. The slot machine licensee shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments shall be accompanied by a report under oath showing all slot machine gaming activities for the preceding calendar month and such other information as may be prescribed by the department ~~division~~.

(4) TO PAY TAX; PENALTIES.—A slot machine licensee who fails to make tax payments as required under this section is subject to an administrative penalty of up to $10,000 for each

313906

day the tax payment is not remitted. All administrative penalties imposed and collected shall be deposited into the Pari-mutuel Wagering Trust Fund ~~of the Department of Business and Professional Regulation~~. If any slot machine licensee fails to pay penalties imposed by order of the department ~~division~~ under this subsection, the department ~~division~~ may suspend, revoke, or refuse to renew the license of the slot machine licensee.

(5) SUBMISSION OF FUNDS.—The department ~~division~~ may require slot machine licensees to remit taxes, fees, fines, and assessments by electronic funds transfer.

Section 59. Section 551.107, Florida Statutes, is amended to read:

551.107 Slot machine occupational license; findings; application; fee.—

(1) The Legislature finds that individuals and entities that are licensed under this section require heightened state scrutiny, including the submission by the individual licensees or persons associated with the entities described in this chapter of fingerprints for a criminal history record check.

(2)(a) The following slot machine occupational licenses shall be issued to persons or entities that, by virtue of the positions they hold, might be granted access to slot machine gaming areas or to any other person or entity in one of the following categories:

1. General occupational licenses for general employees, including food service, maintenance, and other similar service and support employees having access to the slot machine gaming area.

313906

2. Professional occupational licenses for any person, proprietorship, partnership, corporation, or other entity that is authorized by a slot machine licensee to manage, oversee, or otherwise control daily operations as a slot machine manager, a floor supervisor, security personnel, or any other similar position of oversight of gaming operations, or any person who is not an employee of the slot machine licensee and who provides maintenance, repair, or upgrades or otherwise services a slot machine or other slot machine equipment.

3. Business occupational licenses for any slot machine management company or company associated with slot machine gaming, any person who manufactures, distributes, or sells slot machines, slot machine paraphernalia, or other associated equipment to slot machine licensees, or any company that sells or provides goods or services associated with slot machine gaming to slot machine licensees.

(b) The department ~~division~~ may issue one license to combine licenses under this section with pari-mutuel occupational licenses and cardroom licenses pursuant to s. 550.105(2)(b). The department ~~division~~ shall adopt rules pertaining to occupational licenses under this subsection. Such rules may specify, but need not be limited to, requirements and restrictions for licensed occupations and categories, procedures to apply for any license or combination of licenses, disqualifying criminal offenses for a licensed occupation or categories of occupations, and which types of occupational licenses may be combined into a single license under this section. The fingerprinting requirements of subsection (7) apply to any combination license that includes slot machine license

313906

privileges under this section. The department ~~division~~ may not adopt a rule allowing the issuance of an occupational license to any person who does not meet the minimum background qualifications under this section.

(c) Slot machine occupational licenses are not transferable.

(3) A slot machine licensee may not employ or otherwise allow a person to work at a licensed facility unless such person holds the appropriate valid occupational license. A slot machine licensee may not contract or otherwise do business with a business required to hold a slot machine occupational license unless the business holds such a license. A slot machine licensee may not employ or otherwise allow a person to work in a supervisory or management professional level at a licensed facility unless such person holds a valid slot machine occupational license. All slot machine occupational licensees, while present in slot machine gaming areas, shall display on their persons their occupational license identification cards.

(4)(a) A person seeking a slot machine occupational license or renewal thereof shall make application on forms prescribed by the department ~~division~~ and include payment of the appropriate application fee. Initial and renewal applications for slot machine occupational licenses must contain all information that the department ~~division~~, by rule, determines is required to ensure eligibility.

(b) A slot machine license or combination license is valid for the same term as a pari-mutuel occupational license issued pursuant to s. 550.105(1).

(c) Pursuant to rules adopted by the department ~~division~~,

313906

any person may apply for and, if qualified, be issued a slot machine occupational license valid for a period of 3 years upon payment of the full occupational license fee for each of the 3 years for which the license is issued. The slot machine occupational license is valid during its specified term at any licensed facility where slot machine gaming is authorized to be conducted.

(d) The slot machine occupational license fee for initial application and annual renewal shall be determined by rule of the department ~~division~~ but may not exceed $50 for a general or professional occupational license for an employee of the slot machine licensee or $1,000 for a business occupational license for nonemployees of the licensee providing goods or services to the slot machine licensee. License fees for general occupational licensees shall be paid by the slot machine licensee. Failure to pay the required fee constitutes grounds for disciplinary action by the department ~~division~~ against the slot machine licensee, but it is not a violation of this chapter or rules of the department ~~division~~ by the general occupational licensee and does not prohibit the initial issuance or the renewal of the general occupational license.

(5) The department ~~division~~ may:

(a) Deny an application for, or revoke, suspend, or place conditions or restrictions on, a license of a person or entity that has been refused a license by any other state gaming commission, governmental department, agency, or other authority exercising regulatory jurisdiction over the gaming of another state or jurisdiction; or

(b) Deny an application for, or suspend or place conditions

313906

on, a license of any person or entity that is under suspension or has unpaid fines in another state or jurisdiction.

(6)(a) The department ~~division~~ may deny, suspend, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has violated the provisions of this chapter or the rules of the department ~~division~~ governing the conduct of persons connected with slot machine gaming. In addition, the department ~~division~~ may deny, suspend, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has been convicted in this state, in any other state, or under the laws of the United States of a capital felony, a felony, or an offense in any other state which ~~that~~ would be a felony under the laws of this state involving arson; trafficking in, conspiracy to traffic in, smuggling, importing, conspiracy to smuggle or import, or delivery, sale, or distribution of a controlled substance; racketeering; or a crime involving a lack of good moral character, or has had a gaming license revoked by this state or any other jurisdiction for any gaming-related offense.

(b) The department ~~division~~ may deny, revoke, or refuse to renew any slot machine occupational license if the applicant for such license or the licensee has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States if such felony or misdemeanor is related to gambling or bookmaking as described in s. 849.25.

(c) For purposes of this subsection, the term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of

313906

a plea of guilty or nolo contendere.

(7) Fingerprints for all slot machine occupational license applications shall be taken in a manner approved by the department ~~division~~ and shall be submitted electronically to the Department of Law Enforcement for state processing and the Federal Bureau of Investigation for national processing for a criminal history record check. All persons as specified in s. 550.1815(1)(a) employed by or working within a licensed premises shall submit fingerprints for a criminal history record check and may not have been convicted of any disqualifying criminal offenses specified in subsection (6). Department ~~Division~~ employees and law enforcement officers assigned by their employing agencies to work within the premises as part of their official duties are excluded from the criminal history record check requirements under this subsection. For purposes of this subsection, the term "convicted" means 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.

(a) Fingerprints shall be taken in a manner approved by the department ~~division~~ upon initial application, or as required thereafter by rule of the department ~~division~~, and shall be submitted electronically to the Department of Law Enforcement for state processing. The Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. The results of the criminal history record check shall be returned to the department ~~division~~ for purposes of screening. Licensees shall provide necessary equipment approved by the Department of Law Enforcement to

313906

facilitate such electronic submission. The department ~~division~~ requirements under this subsection shall be instituted in consultation with the Department of Law Enforcement.

(b) The cost of processing fingerprints and conducting a criminal history record check for a general occupational license shall be borne by the slot machine licensee. The cost of processing fingerprints and conducting a criminal history record check for a business or professional occupational license shall be borne by the person being checked. The Department of Law Enforcement may submit an invoice to the department ~~division~~ for the cost of fingerprints submitted each month.

(c) All fingerprints submitted to the Department of Law Enforcement and required by this section shall be retained by the Department of Law Enforcement and entered into the statewide automated fingerprint identification system as authorized by s. 943.05(2)(b) and shall be available for all purposes and uses authorized for arrest fingerprint cards entered into the statewide automated fingerprint identification system pursuant to s. 943.051.

(d) The Department of Law Enforcement shall search all arrest fingerprints received pursuant to s. 943.051 against the fingerprints retained in the statewide automated fingerprint identification system under paragraph (c). Any arrest record that is identified with the retained fingerprints of a person subject to the criminal history screening requirements of this section shall be reported to the department ~~division~~. Each licensed facility shall pay a fee to the department ~~division~~ for the cost of retention of the fingerprints and the ongoing searches under this paragraph. The department ~~division~~ shall

313906

forward the payment to the Department of Law Enforcement. The amount of the fee to be imposed for performing these searches and the procedures for the retention of licensee fingerprints shall be as established by rule of the Department of Law Enforcement. The department ~~division~~ shall inform the Department of Law Enforcement of any change in the license status of licensees whose fingerprints are retained under paragraph (c).

(e) The department ~~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 every 3 years following issuance of a license. If the fingerprints of a person who is licensed have not been retained by the Department of Law Enforcement, the person must file a complete set of fingerprints as provided for in paragraph (a). The department ~~division~~ shall collect the fees for the cost of the national criminal history record check under this paragraph and shall forward the payment to the Department of Law Enforcement. The cost of processing fingerprints and conducting a criminal history record check under this paragraph for a general occupational license shall be borne by the slot machine licensee. The cost of processing fingerprints and conducting a criminal history record check under this paragraph for a business or professional occupational license shall be borne by the person being checked. The Department of Law Enforcement may submit an invoice to the department ~~division~~ for the cost of fingerprints submitted each month. Under penalty of perjury, each person who is licensed or who is fingerprinted as required by this section must agree to inform the department ~~division~~ within 48 hours if he or she is convicted of or has entered a

313906

plea of guilty or nolo contendere to any disqualifying offense, regardless of adjudication.

(8) All moneys collected pursuant to this section shall be deposited into the Pari-mutuel Wagering Trust Fund.

(9) The department ~~division~~ may deny, revoke, or suspend any occupational license if the applicant or holder of the license accumulates unpaid obligations, defaults in obligations, or issues drafts or checks that are dishonored or for which payment is refused without reasonable cause.

(10) The department ~~division~~ may fine or suspend, revoke, or place conditions upon the license of any licensee who provides false information under oath regarding an application for a license or an investigation by the department ~~division~~.

(11) The department ~~division~~ may impose a civil fine of up to $5,000 for each violation of this chapter or the rules of the department ~~division~~ in addition to or in lieu of any other penalty provided for in this section. The department ~~division~~ may adopt a penalty schedule for violations of this chapter or any rule adopted pursuant to this chapter for which it would impose a fine in lieu of a suspension and adopt rules allowing for the issuance of citations, including procedures to address such citations, to persons who violate such rules. In addition to any other penalty provided by law, the department ~~division~~ may exclude from all licensed slot machine facilities in this state, for a period not to exceed the period of suspension, revocation, or ineligibility, any person whose occupational license application has been declared ineligible to hold an occupational license or whose occupational license has been suspended or revoked by the department ~~division~~.

313906

Section 60. Section 551.108, Florida Statutes, is amended to read:

551.108 Prohibited relationships.—

(1) A person employed by or performing any function on behalf of the department ~~division~~ may not:

(a) Be an officer, director, owner, or employee of any person or entity licensed by the department ~~division~~.

(b) Have or hold any interest, direct or indirect, in or engage in any commerce or business relationship with any person licensed by the department ~~division~~.

(2) A manufacturer or distributor of slot machines may not enter into any contract with a slot machine licensee which ~~that~~ provides for any revenue sharing of any kind or nature or which ~~that~~ is directly or indirectly calculated on the basis of a percentage of slot machine revenues. Any maneuver, shift, or device whereby this subsection is violated is a violation of this chapter and renders any such agreement void.

(3) A manufacturer or distributor of slot machines or any equipment necessary for the operation of slot machines or an officer, director, or employee of any such manufacturer or distributor may not have any ownership or financial interest in a slot machine license or in any business owned by the slot machine licensee.

(4) An employee of the department ~~division~~ or relative living in the same household as such employee of the department ~~division~~ may not wager at any time on a slot machine located at a facility licensed by the department ~~division~~.

(5) An occupational licensee or relative living in the same household as such occupational licensee may not wager at any

time on a slot machine located at a facility where that person is employed.

Section 61. Subsections (2) and (7) of section 551.109, Florida Statutes, are amended to read:

551.109 Prohibited acts; penalties.—

(2) Except as otherwise provided by law and in addition to any other penalty, any person who possesses a slot machine without the license required by this chapter or who possesses a slot machine at any location other than at the slot machine licensee's facility is subject to an administrative fine or civil penalty of up to $10,000 per machine. The prohibition in this subsection does not apply to:

(a) Slot machine manufacturers or slot machine distributors that hold appropriate licenses issued by the department ~~division~~ who are authorized to maintain a slot machine storage and maintenance facility at any location in a county in which slot machine gaming is authorized by this chapter. The department ~~division~~ may adopt rules regarding security and access to the storage facility and inspections by the department ~~division~~.

(b) Certified educational facilities that are authorized to maintain slot machines for the sole purpose of education and licensure, if any, of slot machine technicians, inspectors, or investigators. The department ~~division~~ and the Department of Law Enforcement may possess slot machines for training and testing purposes. The department ~~division~~ may adopt rules regarding the regulation of any such slot machines used for educational, training, or testing purposes.

(7) All penalties imposed and collected under this section must be deposited into the Pari-mutuel Wagering Trust Fund ~~of~~

313906

~~the Department of Business and Professional Regulation~~.

Section 62. Section 551.112, Florida Statutes, is amended to read:

551.112 Exclusions of certain persons.—In addition to the power to exclude certain persons from any facility of a slot machine licensee in this state, the department ~~division~~ may exclude any person from any facility of a slot machine licensee in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the department ~~division~~. The department ~~division~~ may exclude from any facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state or who has been excluded from any facility of a slot machine licensee or gaming facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over the gaming in such other state. This section does not abrogate the common law right of a slot machine licensee to exclude a patron absolutely in this state.

Section 63. Subsections (3) and (5) of section 551.114, Florida Statutes, are amended to read:

551.114 Slot machine gaming areas.—

(3) The department ~~division~~ shall require the posting of signs warning of the risks and dangers of gambling, showing the odds of winning, and informing patrons of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling.

(5) The permitholder shall provide adequate office space at no cost to the department ~~division~~ and the Department of Law Enforcement for the oversight of slot machine operations. The

313906

department ~~division~~ shall adopt rules establishing the criteria for adequate space, configuration, and location and needed electronic and technological requirements for office space required by this subsection.

Section 64. Section 551.117, Florida Statutes, is amended to read:

551.117 Penalties.—The department ~~division~~ may revoke or suspend any slot machine license issued under this chapter upon the willful violation by the slot machine licensee of any provision of this chapter or of any rule adopted under this chapter. In lieu of suspending or revoking a slot machine license, the department ~~division~~ may impose a civil penalty against the slot machine licensee for a violation of this chapter or any rule adopted by the department ~~division~~. Except as otherwise provided in this chapter, the penalty so imposed may not exceed $100,000 for each count or separate offense. All penalties imposed and collected must be deposited into the Pari-mutuel Wagering Trust Fund ~~of the Department of Business and Professional Regulation~~.

Section 65. Section 551.118, Florida Statutes, is amended to read:

551.118 Compulsive or addictive gambling prevention program.—

(1) The slot machine licensee shall offer training to employees on responsible gaming and shall work with a compulsive or addictive gambling prevention program to recognize problem gaming situations and to implement responsible gaming programs and practices.

(2) The department ~~division~~ shall, subject to competitive

313906

bidding, contract for provision of services related to the prevention of compulsive and addictive gambling. The contract shall provide for an advertising program to encourage responsible gaming practices and to publicize a gambling telephone help line. Such advertisements must be made both publicly and inside the designated slot machine gaming areas of the licensee’s facilities. The terms of any contract for the provision of such services shall include accountability standards that must be met by any private provider. The failure of any private provider to meet any material terms of the contract, including the accountability standards, shall constitute a breach of contract or grounds for nonrenewal. The department ~~division~~ may consult with the Department of the Lottery in the development of the program and the development and analysis of any procurement for contractual services for the compulsive or addictive gambling prevention program.

(3) The compulsive or addictive gambling prevention program shall be funded from an annual nonrefundable regulatory fee of $250,000 paid by the licensee to the department ~~division~~.

Section 66. Paragraph (c) of subsection (4) of section 551.121, Florida Statutes, is amended to read:

551.121 Prohibited activities and devices; exceptions.—

(4)

(c) Outside the designated slot machine gaming areas, a slot machine licensee or operator may accept or cash a check for an employee of the facility who is prohibited from wagering on a slot machine under s. 551.108(5), a check made directly payable to a person licensed by the department ~~division~~, or a check made directly payable to the slot machine licensee or operator from:

313906

1. A pari-mutuel patron; or

2. A pari-mutuel facility in this state or in another state.

Section 67. Section 551.122, Florida Statutes, is amended to read:

551.122 Rulemaking.—The department ~~division~~ may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this chapter.

Section 68. Section 551.123, Florida Statutes, is amended to read:

551.123 Legislative authority; administration of chapter.—The Legislature finds and declares that it has exclusive authority over the conduct of all wagering occurring at a slot machine facility in this state. As provided by law, only the department ~~Division of Pari-mutuel Wagering~~ and other authorized state agencies shall administer this chapter and regulate the slot machine gaming industry, including operation of slot machine facilities, games, slot machines, and facilities-based computer systems authorized in this chapter and the rules adopted by the department ~~division~~.

Section 69. Subsection (5) of section 565.02, Florida Statutes, is amended to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(5) A caterer at a horse or dog racetrack or jai alai fronton may obtain a license upon the payment of an annual state license tax of $675. Such caterer’s license shall permit sales only within the enclosure in which such races or jai alai games are conducted, and such licensee shall be permitted to sell only during the period beginning 10 days before and ending 10 days

313906

after racing or jai alai under the authority of the ~~Division of Pari-mutuel Wagering of the~~ Department of Gaming Control ~~Business and Professional Regulation~~ is conducted at such racetrack or jai alai fronton. Except as otherwise provided in this subsection ~~otherwise provided~~, caterers licensed hereunder shall be treated as vendors licensed to sell by the drink the beverages mentioned herein and shall be subject to all the provisions hereof relating to such vendors.

Section 70. Section 616.09, Florida Statutes, is amended to read:

616.09 Not authorized to carry on gambling, etc.; forfeiture of charter for violations; annulment proceedings.—~~Nothing in~~ This chapter does not ~~shall be held or construed to~~ authorize or permit any fair association to carry on, conduct, supervise, permit, or suffer any gambling or game of chance, lottery, betting, or other act in violation of the criminal laws of the state; and ~~nothing in~~ this chapter does not ~~shall~~ permit horseracing or dogracing or any other pari-mutuel wagering, for money or upon which money is placed. Any fair association that ~~which~~ violates any such law or that ~~which~~ knowingly permits the violation of any such law is subject to forfeiture of its charter; and if any citizen complains to the Department of Legal Affairs or the Department of Gaming Control that the association was organized for or is being used as a cover to evade any of the laws of Florida against crime, and submits prima facie evidence to sustain the charge, the Department of Legal Affairs or the Department of Gaming Control shall institute, and in due time prosecute to final judgment, such proceedings as may be necessary to annul the charter and incorporation of the

313906

association. A writ of injunction or other extraordinary process shall be issued by a court of competent jurisdiction on the application of the Department of Legal Affairs or the Department of Gaming Control on complaint pending the annulment proceeding and in aid thereof, and the case shall be given precedence over all civil cases pending in that court and shall be heard and disposed of with as little delay as practicable.

Section 71. Subsection (9) of section 616.241, Florida Statutes, is amended to read:

616.241 Trade standards for operation at public fairs and expositions.—Trade standards for the operation of shows or games in connection with public fairs and expositions are as follows:

(9) VIOLATIONS; REPORTING.—Florida law forbids lotteries, gambling, raffles, and other games of chance at community, county, district, state, regional, or interstate fairs and specialized shows. Enforcement is the responsibility of the Department of Gaming Control, local boards, and authorities.

Section 72. Section 817.37, Florida Statutes, is amended to read:

817.37 Touting; defining; providing punishment; ejection from racetracks.—

(1) Any person who knowingly and designedly by false representation attempts to, or does persuade, procure, or cause another person to wager on a horse in a race to be run in this state or elsewhere, and upon which money is wagered in this state, and who asks or demands compensation as a reward for information or purported information given in such case is a tout, and commits ~~is guilty of~~ touting.

(2) Any person who is a tout, or who attempts or conspires


313906

to commit touting, commits ~~shall be guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who in the commission of touting falsely uses the name of any official of the Department of Gaming Control ~~Florida Division of Pari-mutuel Wagering~~, its inspectors or attaches, or of any official of any racetrack association, or the names of any owner, trainer, jockey, or other person licensed by the Department of Gaming Control ~~Florida Division of Pari-mutuel Wagering~~, as the source of any information or purported information commits ~~shall be guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any person who has been convicted of touting by any court, and the record of whose conviction on such charge is on file in the office of the Department of Gaming Control ~~Florida Division of Pari-mutuel Wagering~~, any court of this state, or of the Federal Bureau of Investigation, or any person who has been ejected from any racetrack of this or any other state for touting or practices inimical to the public interest shall be excluded from all racetracks in this state and if such person returns to a racetrack he or she commits ~~shall be guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any such person who refuses to leave such track when ordered to do so by inspectors of the Department of Gaming Control ~~Florida Division of Pari-mutuel Wagering~~ or by any peace officer, or by an accredited attache of a racetrack or association commits ~~shall be guilty of~~ a separate offense that ~~which~~ shall be a misdemeanor of the second degree, punishable as

313906

provided in s. 775.083.

Section 73. Section 849.086, Florida Statutes, is amended to read:

849.086 Cardrooms authorized.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to provide additional entertainment choices for the residents of and visitors to the state, promote tourism in the state, and provide additional state revenues through the authorization of the playing of certain games in the state at facilities known as cardrooms which are to be located at licensed pari-mutuel facilities. To ensure the public confidence in the integrity of authorized cardroom operations, this act is designed to strictly regulate the facilities, persons, and procedures related to cardroom operations. Furthermore, the Legislature finds that authorized games as herein defined are considered to be pari-mutuel style games and not casino gaming because the participants play against each other instead of against the house.

(2) DEFINITIONS.—As used in this section:

(a) "Authorized game" means a game or series of games of poker or dominoes which are played in a nonbanking manner.

(b) "Banking game" means 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.

(c) "Cardroom" means a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility. Authorized games

313906

and cardrooms do not constitute casino gaming operations.

(d) "Cardroom management company" means any individual not an employee of the cardroom operator, any proprietorship, partnership, corporation, or other entity that enters into an agreement with a cardroom operator to manage, operate, or otherwise control the daily operation of a cardroom.

(e) "Cardroom distributor" means any business that distributes cardroom paraphernalia such as card tables, betting chips, chip holders, dominoes, dominoes tables, drop boxes, banking supplies, playing cards, card shufflers, and other associated equipment to authorized cardrooms.

(f) "Cardroom operator" means a licensed pari-mutuel permitholder that ~~which~~ holds a valid permit and license issued by the department ~~division~~ pursuant to chapter 550 and that ~~which~~ also holds a valid cardroom license issued by the department ~~division~~ pursuant to this section which authorizes such person to operate a cardroom and to conduct authorized games in such cardroom.

(g) "Department" ~~"Division"~~ means ~~the Division of Pari-mutuel Wagering of~~ the Department of Gaming Control ~~Business and Professional Regulation~~.

(h) "Dominoes" means a game of dominoes typically played with a set of 28 flat rectangular blocks, called "bones," which are marked on one side and divided into two equal parts, with zero to six dots, called "pips," in each part. The term also includes larger sets of blocks that contain a correspondingly higher number of pips. The term also means the set of blocks used to play the game.

(i) "Gross receipts" means the total amount of money

313906

received by a cardroom from any person for participation in authorized games.

(j) "House" means the cardroom operator and all employees of the cardroom operator.

(k) "Net proceeds" means the total amount of gross receipts received by a cardroom operator from cardroom operations less direct operating expenses related to cardroom operations, including labor costs, admission taxes only if a separate admission fee is charged for entry to the cardroom facility, gross receipts taxes imposed on cardroom operators by this section, the annual cardroom license fees imposed by this section on each table operated at a cardroom, and reasonable promotional costs excluding officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead and depreciation expenses not directly related to the operation of the cardrooms.

(l) "Rake" means a set fee or percentage of the pot assessed by a cardroom operator for providing the services of a dealer, table, or location for playing the authorized game.

(m) "Tournament" means a series of games that have more than one betting round involving one or more tables and where the winners or others receive a prize or cash award.

(3) CARDROOM AUTHORIZED.—Notwithstanding any other provision of law, it is not a crime for a person to participate in an authorized game at a licensed cardroom or to operate a cardroom described in this section if such game and cardroom operation are conducted strictly in accordance with the provisions of this section.

(4) AUTHORITY OF DEPARTMENT ~~DIVISION~~.—The department

~~Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation~~ shall administer this section and regulate the operation of cardrooms under this section and the rules adopted pursuant thereto, and is hereby authorized to:

(a) Adopt rules, including, but not limited to: the issuance of cardroom and employee licenses for cardroom operations; the operation of a cardroom; recordkeeping and reporting requirements; and the collection of all fees and taxes imposed by this section.

(b) Conduct investigations and monitor the operation of cardrooms and the playing of authorized games therein.

(c) Review the books, accounts, and records of any current or former cardroom operator.

(d) Suspend or revoke any license or permit, after hearing, for any violation of the provisions of this section or the administrative rules adopted pursuant thereto.

(e) Take testimony, issue summons and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(f) Monitor and ensure the proper collection of taxes and fees imposed by this section. Permitholder internal controls are mandated to ensure no compromise of state funds. To that end, a roaming department ~~division~~ auditor will monitor and verify the cash flow and accounting of cardroom revenue for any given operating day.

(5) LICENSE REQUIRED; APPLICATION; FEES.—A ~~No~~ person may not operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(a) Only those persons holding a valid cardroom license

313906

issued by the department ~~division~~ may operate a cardroom. A cardroom license may ~~only~~ be issued only to a licensed pari-mutuel permitholder and an authorized cardroom may ~~only~~ be operated only at the same facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities. An initial cardroom license shall be issued to a pari-mutuel permitholder only after its facilities are in place and after it conducts its first day of live racing or games.

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. If a permitholder has operated a cardroom during any of the 3 previous fiscal years and fails to include a renewal request for the operation of the cardroom in its annual application for license renewal, the permitholder may amend its annual application to include operation of the cardroom. In order for a cardroom license to be renewed 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 thereto if the permitholder ran at least a full schedule of live racing or games in the prior year. 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 thereto. If more than one permitholder is operating at a facility, each

313906

permitholder must have applied for a license to conduct a full schedule of live racing.

(c) Persons seeking a license or a renewal thereof to operate a cardroom shall make application on forms prescribed by the department ~~division~~. Applications for cardroom licenses shall contain all of the information the department ~~division~~, by rule, may determine is required to ensure eligibility.

(d) The annual cardroom license fee for each facility shall be $1,000 for each table to be operated at the cardroom. The license fee shall be deposited by the department ~~division~~ with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

(6) BUSINESS AND EMPLOYEE OCCUPATIONAL LICENSE REQUIRED; APPLICATION; FEES.—

(a) A person employed or otherwise working in a cardroom as a cardroom manager, floor supervisor, pit boss, dealer, or any other activity related to cardroom operations while the facility is conducting card playing or games of dominoes must hold a valid cardroom employee occupational license issued by the department ~~division~~. Food service, maintenance, and security employees with a current pari-mutuel occupational license and a current background check will not be required to have a cardroom employee occupational license.

(b) Any cardroom management company or cardroom distributor associated with cardroom operations must hold a valid cardroom business occupational license issued by the department ~~division~~.

(c) A ~~No~~ licensed cardroom operator may not employ or allow to work in a cardroom any person unless such person holds a valid occupational license. A ~~No~~ licensed cardroom operator may

not contract, or otherwise do business with, a business required to hold a valid cardroom business occupational license, unless the business holds such a valid license.

(d) The department ~~division~~ shall establish, by rule, a schedule for the renewal of cardroom occupational licenses. Cardroom occupational licenses are not transferable.

(e) Persons seeking cardroom occupational licenses, or renewal thereof, shall make application on forms prescribed by the department ~~division~~. Applications for cardroom occupational licenses shall contain all of the information the department ~~division~~, by rule, may determine is required to ensure eligibility.

(f) The department ~~division~~ shall adopt rules regarding cardroom occupational licenses. The provisions specified in s. 550.105(4), (5), (6), (7), (8), and (10) relating to licensure shall be applicable to cardroom occupational licenses.

(g) The department ~~division~~ may deny, declare ineligible, or revoke any cardroom occupational license if the applicant or holder thereof has been found guilty or had adjudication withheld in this state or any other state, or under the laws of the United States of a felony or misdemeanor involving forgery, larceny, extortion, conspiracy to defraud, or filing false reports to a government agency, racing or gaming commission or authority.

(h) Fingerprints for all cardroom occupational license applications shall be taken in a manner approved by the department ~~division~~ and ~~then~~ shall be submitted to the ~~Florida~~ Department of Law Enforcement and the Federal Bureau of Investigation for a criminal records check upon initial

313906

application and at least every 5 years thereafter. The department ~~division~~ may by rule require an annual record check of all renewal applications for a cardroom occupational license. The cost of processing fingerprints and conducting a record check shall be borne by the applicant.

(i) The cardroom employee occupational license fee may ~~shall~~ not exceed $50 for any 12-month period. The cardroom business occupational license fee may ~~shall~~ not exceed $250 for any 12-month period.

(7) CONDITIONS FOR OPERATING A CARDROOM.—

(a) A cardroom may be operated only at the location specified on the cardroom license issued by the department ~~division~~, and such location may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit or as otherwise authorized by law. Cardroom operations may not be allowed beyond the hours provided in paragraph (b) regardless of the number of cardroom licenses issued for permitholders operating at the pari-mutuel facility.

(b) Any cardroom operator may operate a cardroom at the pari-mutuel facility daily throughout the year, if the permitholder meets the requirements under paragraph (5)(b). The cardroom may be open a cumulative amount of 18 hours per day on Monday through Friday and 24 hours per day on Saturday and Sunday and on the holidays specified in s. 110.117(1).

(c) A cardroom operator must at all times employ and provide a nonplaying dealer for each table on which authorized card games that ~~which~~ traditionally use a dealer are conducted at the cardroom. Such dealers may not have a participatory

313906

interest in any game other than the dealing of cards and may not have an interest in the outcome of the game. The providing of such dealers by a licensee does not constitute the conducting of a banking game by the cardroom operator.

(d) A cardroom operator may award giveaways, jackpots, and prizes to a player who holds certain combinations of cards specified by the cardroom operator.

(e) Each cardroom operator shall conspicuously post upon the premises of the cardroom a notice that ~~which~~ contains a copy of the cardroom license; a list of authorized games offered by the cardroom; the wagering limits imposed by the house, if any; any additional house rules regarding operation of the cardroom or the playing of any game; and all costs to players to participate, including any rake by the house. In addition, each cardroom operator shall post at each table a notice of the minimum and maximum bets authorized at such table and the fee for participation in the game conducted.

(f) The cardroom facility is subject to inspection by the department ~~division~~ or any law enforcement agency during the licensee's regular business hours. The inspection must specifically include the permitholder internal control procedures approved by the department ~~division~~.

(g) A cardroom operator may refuse entry to or refuse to allow any person who is objectionable, undesirable, or disruptive to play, but such refusal may not be on the basis of race, creed, color, religion, gender, national origin, marital status, physical handicap, or age, except as provided in this section.

(8) METHOD OF WAGERS; LIMITATION.—

313906

(a) ~~No~~ Wagering may not be conducted using money or other negotiable currency. Games may only be played utilizing a wagering system whereby all players' money is first converted by the house to tokens or chips that ~~which~~ shall be used for wagering only at that specific cardroom.

(b) The cardroom operator may limit the amount wagered in any game or series of games.

(c) A tournament shall consist of a series of games. The entry fee for a tournament may be set by the cardroom operator. Tournaments may be played only with tournament chips that are provided to all participants in exchange for an entry fee and any subsequent re-buys. All players must receive an equal number of tournament chips for their entry fee. Tournament chips have no cash value and represent tournament points only. There is no limitation on the number of tournament chips that may be used for a bet except as otherwise determined by the cardroom operator. Tournament chips may never be redeemed for cash or for any other thing of value. The distribution of prizes and cash awards must be determined by the cardroom operator before entry fees are accepted. For purposes of tournament play only, the term "gross receipts" means the total amount received by the cardroom operator for all entry fees, player re-buys, and fees for participating in the tournament less the total amount paid to the winners or others as prizes.

(9) BOND REQUIRED.—The holder of a cardroom license shall be financially and otherwise responsible for the operation of the cardroom and for the conduct of any manager, dealer, or other employee involved in the operation of the cardroom. Prior to the issuance of a cardroom license, each applicant for such

313906

license shall provide evidence of a surety bond in the amount of $50,000, payable to the state, furnished by a corporate surety authorized to do business in the state or evidence that the licensee's pari-mutuel bond required by s. 550.125 has been expanded to include the applicant's cardroom operation. The bond shall guarantee that the cardroom operator will redeem, for cash, all tokens or chips used in games. Such bond shall be kept in full force and effect by the operator during the term of the license.

(10) FEE FOR PARTICIPATION.—The cardroom operator may charge a fee for the right to participate in games conducted at the cardroom. Such fee may be either a flat fee or hourly rate for the use of a seat at a table or a rake subject to the posted maximum amount but may not be based on the amount won by players. The rake-off, if any, must be made in an obvious manner and placed in a designated rake area that ~~which~~ is clearly visible to all players. Notice of the amount of the participation fee charged shall be posted in a conspicuous place in the cardroom and at each table at all times.

(11) RECORDS AND REPORTS.—

(a) Each licensee operating a cardroom shall keep and maintain permanent daily records of its cardroom operation and shall maintain such records for a period of not less than 3 years. These records shall include all financial transactions and contain sufficient detail to determine compliance with the requirements of this section. All records shall be available for audit and inspection by the department ~~division~~ or other law enforcement agencies during the licensee's regular business hours. The information required in such records shall be

313906

determined by department ~~division~~ rule.

(b) Each licensee operating a cardroom shall file with the department ~~division~~ a report containing the required records of such cardroom operation. Such report shall be filed monthly by licensees. The required reports shall be submitted on forms prescribed by the department ~~division~~ and shall be due at the same time as the monthly pari-mutuel reports are due to the department ~~division~~, and such reports shall contain any additional information deemed necessary by the department ~~division~~, and the reports shall be deemed public records once filed.

(12) PROHIBITED ACTIVITIES.—

(a) A ~~No~~ person licensed to operate a cardroom may not conduct any banking game or any game not specifically authorized by this section.

(b) A ~~No~~ person under 18 years of age may not be permitted to hold a cardroom or employee license, or engage in any game conducted therein.

(c) With the exception of mechanical card shufflers, an ~~No~~ electronic or mechanical device ~~devices, except mechanical card shufflers,~~ may not be used to conduct any authorized game in a cardroom.

(d) ~~No~~ Cards, game components, or game implements may not be used in playing an authorized game unless such has been furnished or provided to the players by the cardroom operator.

(13) TAXES AND OTHER PAYMENTS.—

(a) Each cardroom operator shall pay a tax to the state of 10 percent of the cardroom operation’s monthly gross receipts.

(b) An admission tax equal to 15 percent of the admission

313906

charge for entrance to the licensee's cardroom facility, or 10 cents, whichever is greater, is imposed on each person entering the cardroom. This admission tax applies ~~shall apply~~ only if a separate admission fee is charged for entry to the cardroom facility. If a single admission fee is charged which authorizes entry to both or either the pari-mutuel facility and the cardroom facility, the admission tax shall be payable only once and shall be payable pursuant to chapter 550. The cardroom licensee is ~~shall be~~ responsible for collecting the admission tax. An admission tax is imposed on any free passes or complimentary cards issued to guests by licensees in an amount equal to the tax imposed on the regular and usual admission charge for entrance to the licensee's cardroom facility. A cardroom licensee may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the cardroom, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other cardroom licensees for the use of their officers and officials. The licensee shall file with the department ~~division~~ a list of all persons to whom tax-free passes are issued.

(c) Payment of the admission tax and gross receipts tax imposed by this section shall be paid to the department ~~division~~. The department ~~division~~ shall deposit these sums with the Chief Financial Officer, one-half being credited to the Pari-mutuel Wagering Trust Fund and one-half being credited to the General Revenue Fund. The cardroom licensee shall remit to the department ~~division~~ payment for the admission tax, the gross receipts tax, and the licensee fees. Such payments shall be

313906

remitted to the department ~~division~~ on the fifth day of each calendar month for taxes and fees imposed for the preceding month's cardroom activities. Licensees shall file a report under oath by the fifth day of each calendar month for all taxes remitted during the preceding calendar month. Such report shall, under oath, indicate the total of all admissions, the cardroom activities for the preceding calendar month, and such other information as may be prescribed by the department ~~division~~.

(d)1. Each greyhound and jai alai permitholder that operates a cardroom facility shall use at least 4 percent of such permitholder's cardroom monthly gross receipts to supplement greyhound purses or jai alai prize money, respectively, during the permitholder's next ensuing pari-mutuel meet.

2. Each thoroughbred and harness horse racing permitholder that operates a cardroom facility shall use at least 50 percent of such permitholder's cardroom monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders' awards during the permitholder's next ensuing racing meet.

3. No cardroom license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing unless the applicant has on file with the department ~~division~~ a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel

313906

facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.

(e) The failure of any licensee to make payments as prescribed in paragraph (c) is a violation of this section, and the licensee may be subjected by the department ~~division~~ to a civil penalty of up to $1,000 for each day the tax payment is not remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a licensee fails to pay penalties imposed by order of the department ~~division~~ under this subsection, the department ~~division~~ may suspend or revoke the license of the cardroom operator or deny issuance of any further license to the cardroom operator.

(f) The cardroom shall be deemed an accessory use to a licensed pari-mutuel operation and, except as provided in chapter 550, a municipality, county, or political subdivision may not assess or collect any additional license tax, sales tax, or excise tax on such cardroom operation.

(g) All of the moneys deposited in the Pari-mutuel Wagering Trust Fund, except as set forth in paragraph (h), shall be utilized and distributed in the manner specified in s. 550.135(1) and (2). However, cardroom tax revenues shall be kept separate from pari-mutuel tax revenues and may ~~shall~~ not be used for making the disbursement to counties provided in former s. 550.135(1).

(h) One-quarter of the moneys deposited into the Pari-mutuel Wagering Trust Fund pursuant to paragraph (g) shall, by October 1 of each year, be distributed to the local government

313906

that approved the cardroom under subsection (16); however, if two or more pari-mutuel racetracks are located within the same incorporated municipality, the cardroom funds shall be distributed to the municipality. If a pari-mutuel facility is situated in such a manner that it is located in more than one county, the site of the cardroom facility shall determine the location for purposes of disbursement of tax revenues under this paragraph. The department ~~division~~ shall, by September 1 of each year, determine: the amount of taxes deposited into the Pari-mutuel Wagering Trust Fund pursuant to this section from each cardroom licensee; the location by county of each cardroom; whether the cardroom is located in the unincorporated area of the county or within an incorporated municipality; and, the total amount to be distributed to each eligible county and municipality.

(14) SUSPENSION, REVOCATION, OR DENIAL OF LICENSE; FINE.—

(a) The department ~~division~~ may deny a license or the renewal thereof, or may suspend or revoke any license, when the applicant has: violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto; knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rules adopted pursuant thereto; or obtained a license or permit by fraud, misrepresentation, or concealment; or if the holder of such license or permit is no longer eligible under this section.

(b) If a pari-mutuel permitholder's pari-mutuel permit or license is suspended or revoked by the department ~~division~~ pursuant to chapter 550, the department ~~division~~ may, but is not required to, suspend or revoke such permitholder's cardroom

313906

license. If a cardroom operator's license is suspended or revoked pursuant to this section, the department ~~division~~ may, but is not required to, suspend or revoke such licensee's pari-mutuel permit or license.

(c) Notwithstanding any other provision of this section, the department ~~division~~ may impose an administrative fine not to exceed $1,000 for each violation against any person who has violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto.

(15) CRIMINAL PENALTY; INJUNCTION.—

(a)1. Any person who operates a cardroom without a valid license issued as provided in this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any licensee or permitholder who violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any licensee or permitholder who commits a second or subsequent violation of the same paragraph or subsection within a period of 3 years from the date of a prior conviction for a violation of such paragraph or subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The department ~~division~~, any state attorney, the statewide prosecutor, or the Attorney General may apply for a temporary or permanent injunction restraining further violation of this section, and such injunction shall issue without bond.

(16) LOCAL GOVERNMENT APPROVAL.—The department may ~~Division of Pari-mutuel Wagering shall~~ not issue any initial license under this section except upon proof in such form as the

department ~~division~~ may prescribe that the local government where the applicant for such license desires to conduct cardroom gaming has voted to approve such activity by a majority vote of the governing body of the municipality or the governing body of the county if the facility is not located in a municipality.

(17) CHANGE OF LOCATION; REFERENDUM.—

(a) Notwithstanding any provisions of this section, no cardroom gaming license issued under this section shall be transferred, or reissued when such reissuance is in the nature of a transfer, so as to permit or authorize a licensee to change the location of the cardroom except upon proof in such form as the department ~~division~~ may prescribe that a referendum election has been held:

1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct cardroom gaming and that a majority of the electors voting on the question in such election voted in favor of the transfer of such license. However, the department ~~division~~ shall transfer, without requirement of a referendum election, the cardroom license of any permitholder that relocated its permit pursuant to s. 550.0555.

2. If the proposed new location is not within the same county as the already licensed location, in the county where the licensee desires to conduct cardroom gaming and that a majority of the electors voting on that question in each such election voted in favor of the transfer of such license.

(b) The expense of each referendum held under the provisions of this subsection shall be borne by the licensee requesting the transfer.

313906

Section 74. Section 849.094, Florida Statutes, is amended to read:

849.094 Game promotion in connection with sale of consumer products or services.—

(1) As used in this section, the term:

(a) "Department" means the Department of Gaming Control.

(b) ~~(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. However, the term does not ~~"game promotion" shall not be construed to~~ apply to bingo games conducted pursuant to s. 849.0931.

(c) ~~(b)~~ "Operator" means any person, firm, corporation, or association or agent or employee thereof who promotes, operates, or conducts a game promotion~~, except any charitable nonprofit organization~~.

(2) It is unlawful for any operator:

(a) To design, engage in, promote, or conduct such a game promotion, in connection with the promotion or sale of consumer products or services, wherein the winner may be predetermined or the game may be manipulated or rigged so as to:

1. Allocate a winning game or any portion thereof to certain lessees, agents, or franchises; or

2. Allocate a winning game or part thereof to a particular period of the game promotion or to a particular geographic area;

(b) Arbitrarily to remove, disqualify, disallow, or reject any entry;

(c) To fail to award prizes offered;

313906

(d) To print, publish, or circulate literature or advertising material used in connection with such game promotions which is false, deceptive, or misleading; or

(e) To require an entry fee, payment, or proof of purchase as a condition of entering a game promotion.

(3) The operator of a game promotion in which the total announced value of the prizes offered is greater than $5,000 shall file with the Department of Gaming Control ~~Agriculture and Consumer Services~~ a copy of the rules and regulations of the game promotion and a list of all prizes and prize categories offered at least 7 days before the commencement of the game promotion. Such rules and regulations may not thereafter be changed, modified, or altered. The operator of a game promotion shall conspicuously post the rules and regulations of such game promotion in each and every retail outlet or place where such game promotion may be played or participated in by the public and shall also publish the rules and regulations in all advertising copy used in connection therewith. However, such advertising copy need only include the material terms of the rules and regulations if the advertising copy includes a website address, a toll-free telephone number, or a mailing address where the full rules and regulations may be viewed, heard, or obtained for the full duration of the game promotion. Such disclosures must be legible. Radio and television announcements may indicate that the rules and regulations are available at retail outlets or from the operator of the promotion. A nonrefundable filing fee of $100 shall accompany each filing and shall be used to pay the costs incurred in administering and enforcing the provisions of this section.

313906

(4)(a) Every operator of ~~such~~ a game promotion in which the total announced value of the prizes offered is greater than $5,000 shall establish a trust account, in a national or state-chartered financial institution, with a balance sufficient to pay or purchase the total value of all prizes offered. On a form supplied by the Department of Gaming Control ~~Agriculture and Consumer Services~~, an official of the financial institution holding the trust account shall set forth the dollar amount of the trust account, the identity of the entity or individual establishing the trust account, and the name of the game promotion for which the trust account has been established. Such form shall be filed with the Department of Gaming Control ~~Agriculture and Consumer Services~~ at least 7 days in advance of the commencement of the game promotion. In lieu of establishing such trust account, the operator may obtain a surety bond in an amount equivalent to the total value of all prizes offered; and such bond shall be filed with the Department of Gaming Control ~~Agriculture and Consumer Services~~ at least 7 days in advance of the commencement of the game promotion.

1. The moneys held in the trust account may be withdrawn in order to pay the prizes offered only upon certification to the Department of Gaming Control ~~Agriculture and Consumer Services~~ of the name of the winner or winners and the amount of the prize or prizes and the value thereof.

2. If the operator of a game promotion has obtained a surety bond in lieu of establishing a trust account, the amount of the surety bond shall equal at all times the total amount of the prizes offered.

(b) The Department of Gaming Control ~~Agriculture and~~

313906

~~Consumer Services~~ may waive the provisions of this subsection for any operator who has conducted game promotions in the state for not less than 5 consecutive years and who has not had any civil, criminal, or administrative action instituted against him or her by the state or an agency of the state for violation of this section within that 5-year period. Such waiver may be revoked upon the commission of a violation of this section by such operator, as determined by the Department of Gaming Control ~~Agriculture and Consumer Services~~.

(5) Every operator of a game promotion in which the total announced value of the prizes offered is greater than $5,000 shall provide the Department of Gaming Control ~~Agriculture and Consumer Services~~ with a certified list of the names and addresses of all persons, whether from this state or from another state, who have won prizes which have a value of more than $25, the value of such prizes, and the dates when the prizes were won within 60 days after such winners have been finally determined. The operator shall provide a copy of the list of winners, without charge, to any person who requests it. In lieu of the foregoing, the operator of a game promotion may, at his or her option, publish the same information about the winners in a Florida newspaper of general circulation within 60 days after such winners have been determined and shall provide to the Department of Gaming Control ~~Agriculture and Consumer Services~~ a certified copy of the publication containing the information about the winners. The operator of a game promotion is not required to notify a winner by mail or by telephone when the winner is already in possession of a game card from which the winner can determine that he or she has won a designated

313906

prize. All winning entries shall be held by the operator for a period of 90 days after the close or completion of the game.

(6) The Department of Gaming Control ~~Agriculture and Consumer Services~~ shall keep the certified list of winners for a period of at least 6 months after receipt of the certified list. The department thereafter may dispose of all records and lists.

(7) No operator shall force, directly or indirectly, a lessee, agent, or franchise dealer to purchase or participate in any game promotion. For the purpose of this section, coercion or force shall be presumed in these circumstances in which a course of business extending over a period of 1 year or longer is materially changed coincident with a failure or refusal of a lessee, agent, or franchise dealer to participate in such game promotions. Such force or coercion shall further be presumed when an operator advertises generally that game promotions are available at its lessee dealers or agent dealers.

(8)(a) The Department of Gaming Control ~~Agriculture and Consumer Services~~ shall have the power to promulgate such rules and regulations respecting the operation of game promotions as it may deem advisable.

(b) Whenever the Department of Gaming Control ~~Agriculture and Consumer Services~~ or the Department of Legal Affairs has reason to believe that a game promotion is being operated in violation of this section, it may bring an action in the circuit court of any judicial circuit in which the game promotion is being operated in the name and on behalf of the people of the state against any operator thereof to enjoin the continued operation of such game promotion anywhere within the state.

(9)(a) Any person, firm, or corporation, or association or

313906

agent or employee thereof, who engages in any acts or practices stated in this section to be unlawful, or who violates any of the rules and regulations made pursuant to this section, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person, firm, corporation, association, agent, or employee who violates any provision of this section or any of the rules and regulations made pursuant to this section shall be liable for a civil penalty of not more than $1,000 for each such violation, which shall accrue to the state and may be recovered in a civil action brought by the Department of Gaming Control ~~Agriculture and Consumer Services~~ or the Department of Legal Affairs.

(10) This section does not apply to ~~actions or transactions regulated by the Department of Business and Professional Regulation or to the activities of nonprofit organizations or to~~ any other organization engaged in any enterprise other than the sale of consumer products or services. Subsections (3), (4), (5), (6), and (7) and paragraph (8)(a) and any of the rules made pursuant thereto do not apply to television or radio broadcasting companies licensed by the Federal Communications Commission.

Section 75. This act shall take effect October 1, 2011.

================ T I T L E A M E N D M E N T ================

And the title is amended as follows:

Delete everything before the enacting clause and insert:

313906

A bill to be entitled

An act relating to governmental reorganization; transferring and reassigning certain functions and responsibilities, including records, personnel, property, and unexpended balances of appropriations and other resources, from the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation to the Department of Gaming Control; transferring certain trust funds from the Department of Business and Professional Regulation to the Department of Gaming Control; amending s. 11.905, F.S.; providing for the review of the Department of Gaming Control; amending s. 20.165, F.S.; deleting the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation; creating s. 20.318, F.S.; establishing the Department of Gaming Control; designating the Governor and Cabinet as the Gaming Commission and head of the department; defining terms; specifying powers and duties of the department; authorizing the department to take testimony; authorizing the department to exclude persons from certain gaming establishments; authorizing the department to conduct investigations and collect fines; requiring the department to issue advisory opinions under certain circumstances; authorizing the department to employ law enforcement officers; requiring the department to assist the Department of Revenue for the benefit of financially dependent children; amending s. 120.80, F.S.; deleting certain

exceptions and special requirements regarding hearings applicable to the Department of Business and Professional Regulation; creating certain exceptions and special requirements regarding hearings within the Department of Gaming Control; amending s. 285.710, F.S.; providing that the Department of Gaming Control is the state compliance agency for purposes of the Indian Gaming Compact; amending s. 455.116, F.S.; removing a trust fund from the Department of Business and Professional Regulation; amending ss. 550.002, 550.0115, 550.01215, 550.0235, 550.0251, 550.0351, 550.054, 550.0555, 550.0651, 550.0745, 550.0951, 550.09511, 550.09512, 550.09514, 550.09515, 550.105, 550.1155, 550.125, 550.135, 550.155, 550.1648, 550.175, 550.1815, 550.24055, 550.2415, 550.2614, 550.26165, 550.2625, 550.26352, 550.2704, 550.334, 550.3345, 550.3355, 550.3551, 550.3615, 550.375, 550.495, 550.505, 550.5251, 550.625, 550.6305, 550.6308, 550.70, 550.902, and 550.907, F.S.; conforming provisions to the transfer of the regulation of pari-mutuel wagering from the Department of Business and Professional Regulation to the Department of Gaming Control; deleting obsolete provisions; conforming cross-references; amending ss. 551.102, 551.103, 551.104, 551.1045, 551.105, 551.106, 551.107, 551.108, 551.109, 551.112, 551.114, 551.117, 551.118, 551.121, 551.122, and 551.123, F.S.; conforming provisions to the transfer of the regulation of slot machines from the Department of

313906

Business and Professional Regulation to the Department of Gaming Control; deleting obsolete provisions; conforming cross-references; amending s. 565.02, F.S.; providing for the licensure of caterers at a horse or dog racetrack or jai alai fronton by the Department of Gaming Control; amending s. 616.09, F.S.; providing for the Department of Gaming Control or the Department of Legal Affairs, to prosecute a fair association for illegal gambling activities; amending s. 616.241, F.S.; adding the Department of Gaming Control to the list of entities authorized to enforce the prohibitions against having certain games at interstate fairs and specialized shows; amending s. 817.37, F.S.; providing for the enforcement of prohibitions against touting by the Department of Gaming Control; amending s. 849.086, F.S.; providing for the regulation of cardrooms by the Department of Gaming Control; amending s. 849.094, F.S.; providing for the regulation of game promotions by the Department of Gaming Control, rather than the Department of Agriculture and Consumer Services; deleting a reference to charitable nonprofit organizations; deleting a reference to the Department of Business and Professional Regulation to conform to changes made by the act; providing an effective date.

179400

LEGISLATIVE ACTION

Senate . House

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. .

. .

. .

The Committee on Regulated Industries (Dean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 5474 - 5669.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete lines 81 - 107

and insert:

the act; providing a contingent

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:	SB 668
INTRODUCER:	Senator Ring
SUBJECT:	Florida Gaming Trust Fund
DATE:	March 3, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Imhof	RI	**Pre-meeting**
2.			GO	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill creates the Florida Gaming Trust Fund within the Department of Gaming Control. The bill provides that money in the fund shall be used for the regulation of skill-based machine gaming and slot machine gaming. The bill is linked to SB 666, which creates the Department of Gaming Control.

This bill creates an unnumbered section of law.

II. Present Situation:

Creation and Operation of Trust Funds

A trust fund consists of moneys received by the state, which under law or under trust agreement, are segregated for a purpose authorized by law.[1] Section 19(f), Art. III, of the Florida Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

In addition, the Legislature has established criteria governing the establishment of trust funds. Under these criteria, a law creating a trust fund must, at a minimum, specify:

- The name of the trust fund;

[1] Section 215.32(2)(b)1., F.S.

- The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes that the trust fund is established to meet; and
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.[2]

The Chief Financial Officer is directed to invest all trust funds and all agency funds of each state agency.[3] Under current law, any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it reverts to the fund from which the Legislature appropriated it and shall be available for reappropriation by the Legislature.[4] Any reversion of appropriations provided from the General Revenue Fund must be transferred to the General Revenue Fund within 15 days after the reversion, unless otherwise provided by federal or state law, including the General Appropriations Act.[5]

State trust funds terminate no more than 4 years after the effective date of the act that created them, unless they are re-created by the Legislature with a three-fifths vote of the House and the Senate.

Slot Machine Gaming

The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation is responsible for the regulation of slot machine gaming.[6]

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. On January 29, 2008, another referendum was held under the provisions of Amendment 4, in which the slot machines in Miami-Dade County were approved. Under the provisions of the amendment, seven pari-mutuel facilities are eligible to conduct slot machine gaming. Of the seven, five are operating slot machines.[7]

In addition to the seven locations authorized for slot machines under the Florida Constitution, on July 1, 2010, a statutory amendment expanded the locations that were authorized slot machine gaming to include pari-mutuel facilities located in a charter county or a county that has a referendum approving slots that was approved by law or the Constitution, provided that such facility has conducted live racing for two calendar years preceding its application and complies with other requirements for slot machine licensure.[8] Currently, only existing pari-mutuel facilities in Miami-Dade County qualify for slot machine authorization. Under the statutory

[2] Section 215.3207, F.S.
[3] Section 17.61, F.S.
[4] Section 216.301(1)(b), F.S.
[5] Section 216.301(1)(d), F.S.
[6] *See*, ch. 551, F.S.
[7] The Isle at Pompano Park, Mardi Gras Gaming, Gulfstream Park, Calder/Tropical Park, and Flagler Dog Track and Magic City are currently operating slot machines.
[8] *See*, ch. 2010-29, L.O.F. and s 551.102(4), F.S.

provision, one additional facility became eligible for slot machine gaming: Hialeah Park (a quarter horse facility). Hialeah Park has applied for a license to conduct slot machine gaming but is not currently operating slot machine gaming.

Slot machine licensees are required to pay a licensure fee of $2.5 million for fiscal year 2010-2011. The annual slot machine licensure fee is reduced in fiscal year 2011-2012 to $2 million.[9] In addition to the license fees, the tax rate on slot machine revenues at each facility is 35 percent.[10] If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade counties is less than the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine licensee shall pay to the state within 45 days after the end of the state fiscal year a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year.[11]

All license fees and taxes paid by slot machine licensees are deposited into the Pari-mutuel Wagering Trust Fund.[12] Slot machine license fees are accounted for separately from other taxes and fees from other pari-mutuel gaming activities and are used solely for investigations of slot machine facilities, slot machine regulation, and enforcement of slot machine regulations.[13]

Arcade Games

Numerous arcade games are currently in operation throughout the State of Florida. Unfortunately, no concrete information may be formulated as these machines are not required to be registered or regulated by any specific state entity.

Section 849.161, F.S., provides an exception to the slot machine prohibition in ch. 849, F.S.[14] Amusement games and machines are authorized in an arcade amusement center[15] that operate by means of the insertion of a coin and which, by application of skill, the person playing the game receives points or coupons redeemable for merchandise only, excluding cash and alcoholic beverages. The value of the prize cannot exceed 75 cents on any game played.[16]

Similar provisions govern retail dealers who operate truck stops with a minimum of six functional diesel fuel pumps. The merchandise for these machines is limited to "noncash prizes, toys, novelties, and Florida Lottery products, excluding alcoholic beverages, provided the cost

[9] Chapter 551.106(1), F.S. Prior to the effective date of 2010-29, L.O.F., the license fee was $3 million.
[10] Chapter 551.106(1), F.S. Prior to the effective date of 2010-29, L.O.F., the tax rate was 50 percent.
[11] Chapter 551.106(2), F.S. The 2008-2009 tax paid on slot machine revenue was $103,895,349. It does not appear that this provision will be triggered because of the additional facilities beginning slot operations. Calder began slot operations in January 2010 and Flagler began operations in October 2009. Miami Jai Alai and Dania Jai Alai have not begun slot operations.
[12] *See*, s. 551.106(1)(a), F.S.
[13] *Id*.
[14] *See* ss. 849.15 and 849.16, F.S.
[15] Amusement center is defined in s. 849.161(2), F.S. as "a place of business having at least 50 coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility."
[16] Section 849.161(1)(a)1., F.S.

value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played."[17]

Section 849.161(1)(b), F.S., also provides an exemption for

> coin-operated game or device designed and manufactured only for bona fide amusement purposes which game or device may by application of skill entitle the player to replay the game or device at no additional cost, if the game or device: can accumulate and react to no more than 15 free replays; can be discharged of accumulated free replays only by reactivating the game or device for one additional play for such accumulated free replay; can make no permanent record, directly or indirectly, of free replays; and is not classified by the United States as a gambling device . . .

III. Effect of Proposed Changes:

The bill creates the Florida Gaming Trust Fund within the Department of Gaming Control. Under the related bill, SB 666, which creates the new department, money received from the taxation of skill-based arcade amusement games will be deposited into this trust fund. The fund will be utilized by the department to fund the regulation of skill-based machine gaming and slot machine gaming. The balance of the trust fund at the end of any fiscal year is to remain in the trust fund for use in subsequent years.

The trust fund must be terminated on July 1, 2015, unless terminated sooner, in accordance with the Florida Constitution.[18] State trust funds shall terminate within four years after the effective date of the act authorizing the trust fund unless a shorter time period is set by the legislature.

The bill provides a contingent effective date of July 1, 2011, if SB ___, or similar legislation creating the Gaming Commission and Department of Gaming Control is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

In accordance with s. 19(f)(2), Art. III of the Florida Constitution, the trust fund shall be terminated on July 1, 2015. Before its scheduled termination, the fund shall be reviewed in accordance with s. 215.3206(1) and (2), F.S.

[17] Section 849.161(1)(a)2., F.S.
[18] Section 19(f)(2), Art. III, Florida Constitution.

In addition, s. 19(f)(1), Art. III of the Florida Constitution provides that "[n]o trust fund of the State of Florida or other public body may be created or re-created by law without a three-fifths vote of the membership of each house of the legislature in a separate bill for that purpose only."

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Gaming Control will regulate pari-mutuel wagering, slot machines, cardrooms, game promotions and skill-based machine gaming. Revenues received from taxation and fees for every regulated entity of the department, except skill-based machine gaming go into the Pari-mutuel Wagering Trust Fund. Skill-based machine gaming tax revenues will be placed into the Florida Gaming Trust Fund.

VI. Technical Deficiencies:

The bill provides that the money in the trust fund will be used for the regulation of slot machine gaming and skill-based machine gaming. Under ch. 551, F.S., slot machine gaming regulation is funded from an annual slot machine license fee per facility. The slot machine license fee is deposited in the Pari-mutuel Wagering Trust Fund, and not the Florida Gaming Trust Fund.

Line 30 of the bill needs to be amended to include the tied bill number, SB 666.

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.)

None.

B. Amendments:

None.