SB 454 by **Wise**; (Identical to H 0249) Public Lodging Establishments

SB 646 by **Wise**; (Identical to H 0715) Self-service Storage Facilities

246502	A	S	RCS	RI, Thrasher	Delete L.33 - 64:	01/19 12:17 PM

SB 762 by **Hays**; (Similar to H 0517) Practice of Professions Regulated by Department of Business and Professional Regulation

SB 380 by **Diaz de la Portilla (CO-INTRODUCERS) Smith**; (Identical to H 0467) Game Promotion

686452	A	S	RCS	RI, Diaz de la Portilla	Delete L.37 - 273:	01/19 12:17 PM

SB 428 by **Oelrich (CO-INTRODUCERS) Gaetz, Gardiner**; (Identical to H 0003) Prohibition of Simulated Gambling Devices

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Jones, Chair
Senator Sachs, Vice Chair

MEETING DATE: Thursday, January 19, 2012
TIME: 8:15 —10:00 a.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 454** Wise (Identical H 249)	Public Lodging Establishments; Revising the definition of the term "public lodging establishment" to exclude certain apartment complexes designated primarily as housing for persons at least 55 years of age, etc. RI 01/19/2012 Favorable CM BC	Favorable Yeas 10 Nays 0
2	**SB 646** Wise (Identical H 715)	Self-service Storage Facilities; Revising notice requirements relating to enforcing an owner's lien; authorizing notice by e-mail or first-class mail, along with a certificate of mailing; providing requirements for e-mail notice; revising provisions relating to when notice given is presumed delivered; requiring rental agreements and applications for rental agreements to contain a provision for the disclosure of the applicant's membership in the uniformed services, etc. RI 01/19/2012 Fav/CS JU	Fav/CS Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**SB 762** Hays (Similar H 517)	Practice of Professions Regulated by Department of Business and Professional Regulation; Providing for the use of the standards of professional practice established by the Real Estate Appraisal Board in connection with the purchase of land to restore Lake Apopka; reducing the maximum amount of continuing education that may be required by the Department of Business and Professional Regulation or one of its boards to reactivate certain inactive licenses; exempting certain types of misconduct relating to auction businesses from being penalized as a felony; reducing the maximum amount of continuing education that may be required by the Regulatory Council of Community Association Managers to reactivate an inactive license; deleting a provision prohibiting a person from violating a lawful order or rule of the Real Estate Commission; deleting a provision subjecting a person to criminal penalties for engaging in willful or repeated violations of laws or rules regulating cosmetology, etc. RI 01/19/2012 Favorable CJ BC	Favorable Yeas 10 Nays 0
4	**SB 380** Diaz de la Portilla (Identical H 467, Compare S 468, CS/S 710)	Game Promotion; Requiring a game promotion operator who provides electronic devices that reveal or display the results of a game promotion that offers certain prize amounts to file certain information with the Department of Agriculture and Consumer Services; prohibiting the department from accepting filings from certain persons against whom there is a criminal or civil adjudication or unsatisfied civil judgment for certain violations; requiring a game promotion operator to provide certain certifications regarding game promotion software and remit to the department annual fees for each electronic device or computer terminal; prohibiting the use of mechanical or electromechanical reels in connection with a game promotion, etc. RI 01/19/2012 Fav/CS CM BC	Fav/CS Yeas 8 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	**SB 428** Oelrich (Identical H 3, Compare CS/S 710)	Prohibition of Simulated Gambling Devices; Creating the “Simulated Gambling Prohibition and Community Protection Act”; prohibiting the use of simulated gambling devices to conduct or promote game promotions, drawings, and games of chance; providing penalties; providing for construction; revising conditions for exceptions to prohibitions on lotteries; prohibiting the use of simulated gambling devices or other devices operated by drawing entrants; providing penalties; limiting the rulemaking authority of the Department of Agriculture and Consumer Services; prohibiting production, possession, or distribution of any gambling apparatus, etc. RI 01/19/2012 Temporarily Postponed RC	Temporarily Postponed

Other Related Meeting Documents

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 454

INTRODUCER: Senator Wise

SUBJECT: Public Lodging Establishments

DATE: January 19, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Favorable**
2.			CM	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill exempts from regulation by the Division of Hotels and Restaurants within the Department of Business and Professional Regulation apartment complexes that are inspected by the U.S. Department of Housing and Urban Development (HUD), or other entity acting on its behalf, and that are designated primarily as housing for persons age 55 or older.

The bill would become effective upon becoming law.

This bill substantially amends section 509.013, Florida Statutes.

II. Present Situation:

Public Lodging Establishments

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. According to the department, there are over 37,544 licensed public lodging establishments, including hotels, motels, nontransient and transient rooming houses, and resort condominiums and dwellings.[1]

[1] *See Annual Report, Fiscal Year 2010-2011*, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at: http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2009_10.pdf (Last visited January 12, 2012).

The term "public lodging establishments" includes transient and nontransient public lodging establishments.[2] The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

Section 509.013(4)(a)1., F.S., defines a "transient public lodging establishment" to mean:

> any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Section 509.013(4)(a)2., F.S., defines a "nontransient public lodging establishment" to mean:

> any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

A nontransient apartment or roominghouse is a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants.[3] A transient apartment or roominghouse is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.[4]

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of "public lodging establishment":

> 1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
> 2. Any hospital, nursing home, sanitarium, assisted living facility, or other similar place;
> 3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
> 4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

[2] Section 509.013(4)(a), F.S.
[3] Section 509.242(1)(d), F.S.
[4] Section 509.242(1)(e), F.S.

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health; under ss. 381.008-381.00895; and
6. Any establishment inspected by the Department of Health and regulated by chapter 513.

Public lodging establishments are classified as a hotel, motel, resort condominium, nontransient apartment, transient apartment, roominghouse, bed and breakfast inn, or resort dwelling.[5]

The 37,544 public lodging establishments licensed by the division. For example, there are:[6]

- Hotels - 1,619 licenses;
- Motels - 2,817 license
- Nontransient apartments - 17,498 licenses;
- Transient apartments - 1,002 licenses;
- Nontransient rooming houses - 152 licenses;
- Transient rooming houses - 218 licenses.

Although all public lodging establishments are licensed, the degree of inspections and the applicable fees vary based on the type of establishment. The Division is required to inspect apartments at least three times annually, but nontransient and transient apartments are inspected at least once annually.[7]

Public lodging establishment license fees are required under s. 509.251, F.S., to be adopted by rule, based on the number of rental units. The aggregate amount of all license fees may not exceed $1000.

Transient apartments pay a base fee of $125, an incremental unit-based fee ranging from $10 for a single unit to $190 for more than 500 units, and the $10 HEP Hospitality Education Program (HEP) fee,[8] for a total fee ranging from $145 to $325.[9]

Non-transient apartments pay a base fee of $95, an incremental unit-based fee ranging from $20 to $95, and the $10 HEP fee required by s. 509.302, F.S., for a total fee ranging from $125 to $295.[10]

Housing for Persons Age 55 or Older

The Fair Housing Act[11] prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, handicap or familial status, e.g., families with children under the age of 18

[5] Section 509.242(1), F.S.
[6] *See* Annual Report, Fiscal Year 2010-2011, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at: http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2010_11.pdf (Last visited January 12, 2012).
[7] Rule 61C-1.002(8)(d), F.A.C
[8] Section 509.302(2)(a), F.S.
[9] *See* Rule 61C-1.008, F.A.C.
[10] *Id.*
[11] 42 U.S.C. 3601-3619.

living with parents or legal guardians; pregnant women and people trying to get custody of children under 18. The Housing for Older Persons Act of 1995[12] provides an exception for housing for older persons, provided that:

- HUD has determined that the dwelling is specifically designed for and occupied by elderly persons under a federal, state or local government program or
- It is occupied solely by persons who are 62 or older or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

Families with children can be legally excluded from housing that satisfies the legal definition of senior housing or housing for older persons.

The U.S. Department of Housing and Urban Development operates programs that designate assisted housing developments for either low-income elderly residents alone, or low-income elderly residents with disabilities.[13]

Inspections of housing for the elderly are conducted on housing that is part of HUD's "Housing Choice Voucher Program," also known as "Section 8 Housing," which provides certain populations, including the elderly, with financial assistance with rent costs.[14] The program regulations provide basic housing quality standards (HQS) which all tenant-based housing must meet. These standards must be met before assistance can be paid on behalf of a resident and at least annually throughout the term of the assisted tenancy.[15] Local public housing agencies inspect the units for health and safety. Certain housing is designated for use by elderly persons, including congregate housing, where tenants share dining spaces and are given food service, and group homes, and must meet additional quality standards.[16]

There are three different types of HQS inspections:

> *Initial Inspections*: These occur upon and application to use a voucher for a specific housing unit and before a lease is signed.
> *Annual inspections:* These ensure that housing units currently under lease continue to meet HQS throughout the tenancy of the participant residents.

[12] 42 U.S.C. 3607(b)(2)(C)
[13] *For example*, the Section 202 Supportive Housing for the Elderly Program provides housing for low-income elderly households. *See* Section 202 Supportive Housing for the Elderly Program at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/progdesc/eld202 (Last visited January 12, 2012).
[14] *See* U.S. Department of Housing and Urban Development, Housing Choice Vouchers Fact Sheet, U.S. Dept. of Housing and Urban Development, *available at* http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/about/fact_sheet (Last visited January 12, 2012).
[15] 24 CFR Part 982.401
[16] Housing Choice Voucher Program Guidebook, U.S. Dept. of Housing and Urban Development, Ch. 17, Special Housing Types, *available at* http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/forms/guidebook (Last Visited January 12, 2012).

> *Special Inspections*: These may be inspections that are prompted by a complaint or are quality control inspections. Quality control inspections are a sample of housing units within a local public housing association's jurisdiction made throughout the year.[17]

According to the Department of Business and Professional Regulation, the division does not differentiate between apartments rented primarily to persons age 55 or older and any other rental population. The division does not collect any data to identify apartments inspected by HUD, an authorized entity, or relating to designation as primarily housing for persons age 55 or older.

The department indicated that HUD lists approximately 303 apartments in Florida as "Elderly." The division estimates it currently licenses approximately 150 to 200 of the apartments listed as "Elderly" by HUD.[18]

III. Effect of Proposed Changes:

The bill amends s. 509.013(4)(a), F.S., to provide an exemption from regulation by the division for apartment complexes that are inspected by the U.S. Department of Housing and Urban Development, or other entity acting on its behalf, and that are designated primarily as housing for persons age 55 or older.

The bill would become effective upon becoming law.

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:

None.

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[17] *See* U.S. Department of Housing and Urban Development, Housing Quality Standards (HQS) – Frequently Asked Questions; available at: http://www.hud.gov/offices/pih/programs/hcv/hqs/hqsfaq.pdf (Last visited January 12, 2012).
[18] *2012 Legislative Analysis for SB 454*, Office of Legislative Affairs, Department of Business and Professional Regulation (October 18, 2011).

B. Private Sector Impact:

According to the division, the bill would reduce the regulatory costs for apartment complexes that are designated primarily as housing for persons at least 55 years of age.

C. Government Sector Impact:

According to the division, the bill would reduce license fees collected and deposited into the Division of Hotels and Restaurants Trust Fund. The exact reduction in license fees is indeterminate, but the division estimates an annual fiscal impact of approximately $26,887. The division anticipates that bill may also minimally reduce the amount of fines collected.

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.

By Senator Wise

5-00438A-12 2012454__

A bill to be entitled

An act relating to public lodging establishments; amending s. 509.013, F.S.; revising the definition of the term "public lodging establishment" to exclude certain apartment complexes designated primarily as housing for persons at least 55 years of age; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 509.013, Florida Statutes, is amended to read:

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

(4)(a) "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

2. "Nontransient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30 place regularly rented to guests for periods of at least 30 days
31 or 1 calendar month.
32
33 License classifications of public lodging establishments, and
34 the definitions therefor, are set out in s. 509.242. For the
35 purpose of licensure, the term does not include condominium
36 common elements as defined in s. 718.103.
37 (b) The following are excluded from the definitions in
38 paragraph (a):
39 1. Any dormitory or other living or sleeping facility
40 maintained by a public or private school, college, or university
41 for the use of students, faculty, or visitors.~~;~~
42 2. Any facility certified or licensed and regulated by the
43 Agency for Health Care Administration or the Department of
44 Children and Family Services or other similar place regulated
45 under s. 381.0072.~~;~~
46 3. Any place renting four rental units or less, unless the
47 rental units are advertised or held out to the public to be
48 places that are regularly rented to transients.~~;~~
49 4. Any unit or group of units in a condominium,
50 cooperative, or timeshare plan and any individually or
51 collectively owned one-family, two-family, three-family, or
52 four-family dwelling house or dwelling unit that is rented for
53 periods of at least 30 days or 1 calendar month, whichever is
54 less, and that is not advertised or held out to the public as a
55 place regularly rented for periods of less than 1 calendar
56 month, provided that no more than four rental units within a
57 single complex of buildings are available for rent.~~;~~
58 5. Any migrant labor camp or residential migrant housing

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 permitted by the Department of Health under ss. 381.008-
60 381.00895.~~;~~
61 6. Any establishment inspected by the Department of Health
62 and regulated by chapter 513.~~; and~~
63 7. Any nonprofit organization that operates a facility
64 providing housing only to patients, patients' families, and
65 patients' caregivers and not to the general public.
66 8. Any apartment complex inspected by the United States
67 Department of Housing and Urban Development or other entity
68 acting on the department's behalf that is designated primarily
69 as housing for persons at least 55 years of age.
70 Section 2. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 454
FINAL ACTION: Favorable
MEETING DATE: Thursday, January 19, 2012
TIME: 8:15 —10:00 a.m.
PLACE: 110 Senate Office Building

FINAL VOTE			1/19/2012 8:15AM 1 Motion to vote "YEA" after Roll Call Bogdanoff		1/19/2012 8:15AM 2 Motion to vote "YEA" after Roll Call Diaz de la Portilla		1/19/2012 8:15AM 3 Motion to vote "YEA" after Roll Call Siplin	
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Altman						
X		Bogdanoff						
X		Braynon						
X		Dean						
X		Diaz de la Portilla						
X		Rich						
X		Siplin						
X		Thrasher						
X		Sachs, VICE CHAIR						
X		Jones, CHAIR						
10	0	**TOTALS**	FAV	-	FAV	-	FAV	-
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order

S0454
GENERAL BILL by Wise; (Identical H 0249)
Public Lodging Establishments. EFFECTIVE DATE: upon becoming a law.
01/13/12 S On Committee agenda-- Regulated Industries, 01/19/12, 8:15 am, 110 Senate Office Building
01/19/12 S Favorable by Regulated Industries; YEAS 10 NAYS 0; Now in Commerce and Tourism

The Florida Senate

Committee Agenda Request

To: Senator Dennis L. Jones, D.C., Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: December 15, 2011

I respectfully request that **Senate Bill # 454**, relating to Public Lodging Establishments, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Stephen Wise

Senator Stephen R. Wise
Florida Senate, District 5

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 19
Meeting Date

Topic: Public Judging

Bill Number: SB 454 *(if applicable)*

Name: Tom Randle

Amendment Barcode: *(if applicable)*

Job Title: Vice President of Public Policy

Address: 1812 Riggins Road
Street

Tallahassee FL 32308
City *State* *Zip*

Phone: 671-3700

E-mail: TRandle@FAHSA.org

Speaking: [x] For [ ] Against [ ] Information

Representing: Leading Age Florida

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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 646

INTRODUCER: Senator Wise

SUBJECT: Self-Storage Facilities

DATE: January 17, 2012 REVISED:

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

I. Summary:

This bill changes the notice requirements related to enforcing an owner's lien against goods stored in a self-service storage facility. Specifically, it allows for notice by e-mail or first-class mail along with a certificate of mailing. It revises the provisions relating to when notice is presumed delivered. The bill requires that rental agreements and applications for rental agreements contain a provision disclosing whether the applicant is a member of the uniformed services.

This bill substantially amends the following sections of the Florida Statutes: 83.803, 83.806 and 83.808.

II. Present Situation:

The Florida Self-storage Facility Act in part III of ch. 83, F.S., controls the relationship between the owner of a self storage facility and a tenant. This act controls the enforcement of an owner's lien, including the notice requirements for the sale of the personal property of the tenant who is in default.

Section 83.803(6), F.S., defines the term "last known address" to mean the address provided by the tenant in the latest rental agreement or the address provided by the tenant by hand delivery or certified mail in a subsequent written notice of a change of address.

Section 83.806 (1), F.S., requires a tenant to be notified of an enforcement of lien by written notice delivered in person or by certified mail to the tenant's last known address and

conspicuously posted at the self-service storage facility or on the self-contained storage unit. The notice must include:

- An itemized statement of the owner's claim;
- A description of the personal property;
- A demand for payment within a specified time, not less than 14 days after delivery of the notice;
- A conspicuous statement that unless the claim is paid within the time stated in the notice the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place; and
- The name, street address, and telephone number of the owner whom the tenant may contact to respond to the notice.[1]

Under s. 83.806(3), F.S., any notice given in the enforcement action is presumed delivered when it is deposited with the United States Postal Service, registered, and properly addressed with postage prepaid.

In the event of a sale, s. 83.806(8), F.S., requires the owner to provide notice of any balance remaining to the tenant either in person or by certified mail to the last known address of the tenant. If lienholders are involved, the owner must also provide a notice of the amount of the sale proceeds to the secured lienholders in person or by certified mail.

Under The Servicemembers Civil Relief Act, codified at 50 U.S.C. 537, military personnel called to active duty are protected against terminations of storage leases.

Self-storage facilities are required to send mail by United States Postal Service Certified Mail which allows the owner to find out when their item was delivered or when delivery was attempted. The Certificate of Mailing option provides the owner evidence of when the item was mailed and the date the mail was accepted.

III. Effect of Proposed Changes:

Section 1 amends s. 83.803(6), F.S., to expand the definition of last known address to include the street address, post office box, or e-mail address provided by the tenant or in a subsequent written change of address notice provided by first-class mail, or e-mail. The bill removes the provision for notice of change of address being provided by the tenant by certified mail.

Section 2 amends s. 83.806(1), F.S. to remove the requirement that a tenant be notified of the owner's claim by certified mail. It allows written notice of a pending sale of property to be delivered in person, by e-mail, or by first-class mail, along with a certificate of mailing. Specifically, if the owner notifies the tenant by e-mail, a response, return receipt, or delivery confirmation from the last known e-mail address of the tenant is required. If no response is forthcoming, the owner must send notice of the sale to the tenant's last known address by first-class mail, along with a certificate of mailing, before proceeding with the sale.

[1] Section 83.806(2), F.S.

The bill amends s. 83.806(3), F.S., altering the criteria of the presumption that the required notice was delivered to the tenant by removing the requirement that the notice be sent by registered mail.

The bill amends s. 83.806(8), F.S., to permit the owner to notify the tenant or secured lienholders of any balance remaining from the proceeds of a sale of property by first-class mail, along with a certificate of mailing, and removes the reference to certified mail.

Section 3 amends s. 83.808(8), F.S., to require contract rental agreements or applications for a rental agreement to contain a provision disclosing whether the applicant is a member of the uniformed services as that term is defined in 10 U.S.C. s. 101(a)(5).

Section 4 provides an effective date of July 1, 2012.

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:

None.

B. Private Sector Impact:

The bill may lower the cost for owners of self-storage facilities with respect to providing the required notice to tenants and secured lienholders under the self storage facility act.

C. Government Sector Impact:

None.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

246502

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 33 - 64
4 and insert:
5 mail with a certificate of mailing, to the tenant's last known
6 address and conspicuously posted at the self-service storage
7 facility or on the self-contained storage unit. If the owner
8 sends notice of a pending sale of property to the tenant's last
9 known e-mail address and does not receive a response, return
10 receipt, or delivery confirmation from the same e-mail address,
11 the owner must send notice of the sale to the tenant by first-
12 class mail with a certificate of mailing, to the tenant's last

246502

13 known address before proceeding with the sale.
14 (3) Any notice given pursuant to this section shall be
15 presumed delivered when it is deposited with the United States
16 Postal Service~~, registered,~~ and properly addressed with postage
17 prepaid.
18 (8) In the event of a sale under this section, the owner
19 may satisfy his or her lien from the proceeds of the sale,
20 provided the owner's lien has priority over all other liens in
21 the personal property. The lien rights of secured lienholders
22 are automatically transferred to the remaining proceeds of the
23 sale. The balance, if any, shall be held by the owner for
24 delivery on demand to the tenant. A notice of any balance shall
25 be delivered by the owner to the tenant in person or by first-
26 class ~~certified~~ mail with a certificate of mailing, to the last
27 known address of the tenant. If the tenant does not claim the
28 balance of the proceeds within 2 years after ~~of~~ the date of
29 sale, the proceeds shall be deemed abandoned, and the owner
30 shall have no further obligation with regard to the payment of
31 the balance. In the event that the owner's lien does not have
32 priority over all other liens, the sale proceeds shall be held
33 for the benefit of the holders of those liens having priority. A
34 notice of the amount of the sale proceeds shall be delivered by
35 the owner to the tenant or secured lienholders in person or by
36 first-class ~~certified~~ mail with a
37
38 ========== T I T L E A M E N D M E N T ==========
39 And the title is amended as follows:
40 Delete line 7
41 and insert:

246502

42 mail or first-class mail with a certificate of

By Senator Wise

5-00706-12 2012646__

A bill to be entitled

An act relating to self-service storage facilities; amending s. 83.803, F.S.; revising the definition of the term “last known address”; amending s. 83.806, F.S.; revising notice requirements relating to enforcing an owner’s lien; authorizing notice by e-mail or first-class mail, along with a certificate of mailing; providing requirements for e-mail notice; revising provisions relating to when notice given is presumed delivered; amending s. 83.808, F.S.; requiring rental agreements and applications for rental agreements to contain a provision for the disclosure of the applicant’s membership in the uniformed services; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 83.803, Florida Statutes, is amended to read:

83.803 Definitions.—As used in ss. 83.801-83.809:

(6) “Last known address” means the street ~~that~~ address or post office box address provided by the tenant in the latest rental agreement or in a subsequent written change-of-address notice provided ~~the address provided by the tenant~~ by hand delivery, first-class mail, or e-mail ~~certified mail in a subsequent written notice of a change of address~~.

Section 2. Subsections (1), (3), and (8) of section 83.806, Florida Statutes, are amended to read:

83.806 Enforcement of lien.—An owner’s lien as provided in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30 s. 83.805 may be satisfied as follows:
31 (1) The tenant shall be notified by written notice
32 delivered in person, by e-mail, or by first-class ~~certified~~
33 mail, along with a certificate of mailing, to the tenant's last
34 known address and conspicuously posted at the self-service
35 storage facility or on the self-contained storage unit. If the
36 owner sends notice of a pending sale of property to the tenant's
37 last known e-mail address and does not receive a response,
38 return receipt, or delivery confirmation from the same e-mail
39 address, the owner must send notice of the sale to the tenant by
40 first-class mail, along with a certificate of mailing, to the
41 tenant's last known address before proceeding with the sale.
42 (3) Any notice given pursuant to this section shall be
43 presumed delivered when it is deposited with the United States
44 Postal Service~~, registered,~~ and properly addressed with postage
45 prepaid.
46 (8) In the event of a sale under this section, the owner
47 may satisfy his or her lien from the proceeds of the sale,
48 provided the owner's lien has priority over all other liens in
49 the personal property. The lien rights of secured lienholders
50 are automatically transferred to the remaining proceeds of the
51 sale. The balance, if any, shall be held by the owner for
52 delivery on demand to the tenant. A notice of any balance shall
53 be delivered by the owner to the tenant in person or by first-
54 class ~~certified~~ mail, along with a certificate of mailing, to
55 the last known address of the tenant. If the tenant does not
56 claim the balance of the proceeds within 2 years after ~~of~~ the
57 date of sale, the proceeds shall be deemed abandoned, and the
58 owner shall have no further obligation with regard to the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 payment of the balance. In the event that the owner's lien does
60 not have priority over all other liens, the sale proceeds shall
61 be held for the benefit of the holders of those liens having
62 priority. A notice of the amount of the sale proceeds shall be
63 delivered by the owner to the tenant or secured lienholders in
64 person or by first-class ~~certified~~ mail, along with a
65 certificate of mailing, to their last known addresses. If the
66 tenant or the secured lienholders do not claim the sale proceeds
67 within 2 years after ~~of~~ the date of sale, the proceeds shall be
68 deemed abandoned, and the owner shall have no further obligation
69 with regard to the payment of the proceeds.
70 Section 3. Section 83.808, Florida Statutes, is amended to
71 read:
72 83.808 Contracts ~~Contractual liens~~.~~—~~
73 (1) Nothing in ss. 83.801-83.809 shall be construed as in
74 any manner impairing or affecting the right of parties to create
75 liens by special contract or agreement nor shall it in any
76 manner impair or affect any other lien arising at common law, in
77 equity, or by any statute of this state or any other lien not
78 provided for in s. 83.805.
79 (2) A rental agreement or an application for a rental
80 agreement must contain a provision disclosing whether the
81 applicant is a member of the uniformed services as that term is
82 defined in 10 U.S.C. s. 101(a)(5).
83 Section 4. This act shall take effect July 1, 2012.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 646
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Thursday, January 19, 2012
TIME: 8:15 —10:00 a.m.
PLACE: 110 Senate Office Building

FINAL VOTE			1/19/2012 8:15AM 1 Amendment 246502 Thrasher		1/19/2012 8:15AM 2 Motion to submit as Committee Bill Sachs		1/19/2012 8:15AM 3 Motion to vote "YEA" after Roll Call Bogdanoff	
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Altman						
X		Bogdanoff						
X		Braynon						
X		Dean						
X		Diaz de la Portilla						
X		Rich						
X		Siplin						
X		Thrasher						
X		Sachs, VICE CHAIR						
X		Jones, CHAIR						
10	0	**TOTALS**	RCS	-	FAV	-	FAV	-
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order

REPORTING INSTRUCTION: Publish
01192012.1216

S0646
GENERAL BILL by Wise; (Identical H 0715)
Self-service Storage Facilities. EFFECTIVE DATE: 07/01/2012.
01/10/12 S Introduced -SJ 55
01/13/12 S On Committee agenda-- Regulated Industries, 01/19/12, 8:15 am, 110 Senate Office Building
01/19/12 S CS by Regulated Industries; YEAS 10 NAYS 0

The Florida Senate

Committee Agenda Request

To: Senator Dennis L. Jones, D.C., Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: November 17, 2011

I respectfully request that **Senate Bill # 646**, relating to Self-service Storage Facilities, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Stephen R. Wise
Florida Senate, District 5

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/2012
Meeting Date

Topic: Self Service Storage lien update

Bill Number: SB 646 *(if applicable)*

Name: Tim Dietz

Amendment Barcode: *(if applicable)*

Job Title: Sr. VP Govt Relations

Address: 1901 N. Beauregard St
Street

Alexandria VA 22311
City *State* *Zip*

Phone: 571-722-3825

E-mail: tdietz@selfstorage.org

Speaking: [✓] For [ ] Against [ ] Information

Representing: FL-Self Storage Association

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12
Meeting Date

Topic: SELF Storage Facilities

Bill Number: SB 646 *(if applicable)*

Name: MICHAEL MELE

Amendment Barcode: *(if applicable)*

Job Title: Pres. FL SELF Storage Assoc

Address: 1314 Whitaker Rd
Street

LUTZ, FL 33549
City, State, Zip

Phone: 813-926-1749

E-mail: mmele@mac.com

Speaking: [X] For [ ] Against [ ] Information

Representing: FL SELF Storage Association

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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 762

INTRODUCER: Senator Hays

SUBJECT: Practice of Professions Regulated by Department of Business and Professional Regulation

DATE: January 19, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Favorable**
2.			CJ	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill revises references to the professional standards with which registered, licensed, and certified appraisers are required to comply. It requires the Florida Real Estate Appraisal Board to adopt rules that establish standards of professional practice that meet or exceed nationally recognized standards of appraisal practice, including standards adopted by the Appraisal Standards Board of the Appraisal Foundation.

The bill also reduces the continuing education hours required to reactivate an inactive license to only one renewal cycle of hours, instead of the hours required for each year the license was inactive, for the following professions: community association managers, home inspectors, providers of mold-related services, cosmetologists, architects, landscape architects, construction contractors, and electrical and alarm system contractors. The bill exempts certified public accountants licensed under ch. 473, F.S., and real estate brokers, sales associates, real estate schools, and appraisers licensed under ch. 474, F.S. These professionals would continue to be required to complete the continuing education required for each two-year period of licensure in order to reactivate an inactive license. The bill also clarifies that the Board of Architecture and Interior Design may only approve continuing education for an interior designer that builds upon the basic knowledge of interior design.

The bill repeals provisions that provide criminal penalties for violations of agency rules and the chapters of the Florida Statutes that govern the specified professions. Under the bill the following professions would not be subject to criminal penalties for such violations: auctioneers, real estate professionals, barbers, and cosmetologists. However, the bill limits the application of

criminal penalties for specified violations by auctioneers that relate to financial dishonesty or malfeasance.

The bill provides an effective date of July 1, 2012.

This bill substantially amends the following sections of the Florida Statutes: 373.461, 455.271, 468.391, 468.4338, 468.8317, 468.8417, 475.25, 475.42, 475.615, 475.617, 475.6175, 475.6235, 475.624, 475.6245, 475.626, 475.628, 476.194, 477.0212, 477.0265, 481.217, 481.315, 489.116, and 489.519.

II. Present Situation:

Department of Business and Professional Regulation
The Department of Business and Professional Regulation (department) was established in 1993 with the merger of the Department of Business Regulation and the Department of Professional Regulation.[1] The department is created in s. 20.165, F.S. Section 20.165(2), F.S., creates the following eleven divisions within the department:

- Division of Administration.
- Division of Alcoholic Beverages and Tobacco.
- Division of Certified Public Accounting.
- Division of Florida Condominiums, Timeshares, and Mobile Homes.
- Division of Hotels and Restaurants.
- Division of Pari-mutuel Wagering.
- Division of Professions.
- Division of Real Estate.
- Division of Regulation.
- Division of Technology.
- Division of Service Operations.

Professional Boards
Section 20.165(4)(a), F.S., establishes the following boards and professions within the Division of Professions:

- Board of Architecture and Interior Design, created under part I of ch. 481, F.S.
- Florida Board of Auctioneers, created under part VI of ch. 468, F.S.
- Barbers' Board, created under ch. 476, F.S.
- Florida Building Code Administrators and Inspectors Board, created under part XII of ch. 468, F.S.
- Construction Industry Licensing Board, created under part I of ch. 489, F.S.
- Board of Cosmetology, created under ch. 477, F.S.
- Electrical Contractors' Licensing Board, created under part II of ch. 489, F.S.
- Board of Employee Leasing Companies, created under part XI of ch. 468, F.S.
- Board of Landscape Architecture, created under part II of ch. 481, F.S.

[1] Chapter 93-220, L.O.F.

- Board of Pilot Commissioners, created under ch. 310, F.S.
- Board of Professional Engineers, created under ch. 471, F.S.
- Board of Professional Geologists, created under ch. 492, F.S.
- Board of Veterinary Medicine, created under ch. 474, F.S.
- Home Inspection Services Licensing Program, created under part XV of ch. 468, F.S.
- Mold-Related Services Licensing Program, created under part XVI of ch. 468, F.S.

The Pilot Rate Review Committee is established under the Board of Pilot Commissioners.[2] Section 20.165(4)(b), F.S., establishes the following board and commission within the Division of Real Estate:

- Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S.
- Florida Real Estate Commission, created under part I of ch. 475, F.S.

Section 20.165(4)(c), F.S., establishes the Board of Accountancy, created under ch. 473, F.S., within the Division of Certified Public Accounting.

The Florida State Boxing Commission[3] and the Regulatory Council of Community Managers[4] are also housed within the department. The department also has regulatory oversight responsibilities over the following professions:

- Child labor under part I of ch. 450, F.S.
- Farm labor contractors under part III of ch. 450, F.S.
- Talent agencies under part VII of ch. 468, F.S.

In addition to administering the professional boards, the department processes applications for licensure and license renewal. The department also receives and investigates complaints made against licensees and, if necessary, brings administrative charges.

Chapter 455, F.S., provides the general powers of the department and sets forth the procedural and administrative frame-work for all of the professional boards housed under the department, the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

Continuing Education
Section 455.271(4), F.S., provides that an inactive licensee may change his or her status to active provided the licensee meets all requirements for active status, pays the appropriate fees, and meets all continuing education requirements.

Community Association Managers
Section 468.4338, F.S., requires the Regulatory Council of Community Association Managers to prescribe by rule continuing education requirements for reactivating a license. The continuing education requirements for reactivating a license may not exceed 10 classroom hours for each year the license was inactive.

[2] Section 310.151, F.S.
[3] Section 548.003, F.S.
[4] Section 468.4315, F.S

Home Inspectors
Section 468.8317(2), F.S., provides that the department may prescribe rules that require continuing education requirements as a condition to reactivate an inactive license. The continuing education requirements for reactivating a license may not exceed 14 hours for each year the license was inactive.

Mold-Related Services
Section 468.8417(2), F.S., provides that the department may prescribe rules that require continuing education requirements as a condition to reactivate an inactive license. The continuing education requirements for reactivating a license may not exceed 14 hours for each year the license was inactive.

Cosmetology
Section 477.019(7)(a), F.S., requires the Board of Cosmetology to prescribe by rule continuing education requirements, not to exceed 16 hours biennially,[5] as a condition for renewal of a license or registration. Section 477.0212, F.S., provides that a cosmetologist's license that has become inactive may be reactivated upon application to the department, which would require the inactive licensee to complete 16 hours of continuing education coursework for each cycle he or she was inactive.

Architecture and Interior Design
Section 481.215, F.S., provides that the continuing education requirements for renewal of architect and interior designer licenses shall be no less than 20 hours per license cycle. Section 481.217(1), F.S., provides that the continuing education requirement for reactivating an architect's license may not exceed 12 hours for each year the license was inactive. The statute provides that the minimum continuing education requirement for reactivating an interior designer's license shall be the number of hours required for the most recent license cycle plus half of the requirements for each year or part in which the license was inactive.

Landscape Architecture
Section 481.315(1), F.S., provides that continuing education requirements for renewing an inactive landscape architect's license may not exceed 12 hours for each year the license was inactive.

Construction
Section 489.115, F.S., provides that the continuing education requirement for renewal of a construction contractor's license shall be at least 14 hours per license cycle. Section 489.116(6), F.S., provides that an inactive licensee shall comply with the same continuing education requirements that are imposed on an active licensee.

Electrical or Alarm Contracting
Section 489.517(3), F.S., provides that the continuing education requirement for renewal of an electrical or alarm contractor's license shall be at least 14 hours per license cycle. Section

[5] Licenses are renewed on a two-year cycle.

489.519(1), F.S., provides that the continuing education requirements for reactivating a license may not exceed 12 classroom hours for each year the certificate or registration was inactive.

Criminalization of Rule Violations
The practice acts for several professions provide criminal penalties for violations of agency rules and the chapters of the Florida Statutes that govern the specified professions. The following professions are subject to criminal penalties for such violations:

- Auctioneers in s. 468.391, F.S.;
- Real estate professionals in s. 475.42(1)(e), F.S.;
- Barbers in s. 476.194(1)(b), F.S.; and
- Cosmetologists in s. 477.0265(1)(c), F.S.

For each of these professions, a violation of an agency rule of the governing chapter would be punishable as a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. If the violation is by a corporation licensed by the Florida Real Estate Commission, the corporation may be subject to a misdemeanor of the second degree, punishable as provided in s. 775.083, F.S.

Section 775.082, F.S., provides that a second degree misdemeanor is punishable by incarceration for not longer than 60 days in jail.[6] Section 775.083, F.S., provides that a second degree misdemeanor can also be punishable by a fine of not more than $500.[7]

III. Effect of Proposed Changes:

Professional Practice Standards for Appraisers
The bill amends s. 373.461(5)(c), F.S., which relates to the purchase of agricultural lands by the St. Johns River Water Management District, to reference standards of professional practice adopted by rule of the Florida Real Estate Appraisal Board, including standards for the development or communication of real estate appraisals, instead of referencing the Uniform Standards of Professional Appraisal Practices. (Section 1).

The bill amends s. 475.25(1), F.S., which provides the disciplinary provisions for real estate brokers, sales associates, and real estate schools to replace references to the Uniform Standards of Professional Appraisal Practice with the standards of professional practice adopted by rule of the Florida Real Estate Appraisal Board. **(**Section 7).

The bill amends s. 475.615, F.S., to replace references to the Uniform Standards of Professional Appraisal Practice with the standards of professional practice, including standards for the development or communication of real estate appraisal, adopted by rule of the Florida Real Estate Appraisal Board with which an applicant must pledge that he or she will comply. (Section 9).

[6] *See* s. 775.082(4)(b), F.S.
[7] *See* s. 775.083(1)(e), F.S.

The bill amends ss. 475.617 and 475.6175(1), F.S., which provide the pre-licensure and post-licensure education requirements for registered trainee appraisers, respectively, to include rules of the Florida Real Estate Appraisal Board that are equivalent to the Uniform Standards of Professional Appraisal Practice. (Sections 10 and 11).

The bill amends s. 475.6235(4), F.S., which relates to the registration of appraisal management companies, to reference standards of professional practice adopted by rule of the Florida Real Estate Appraisal Board, including standards for the development or communication of real estate appraisal, instead of referencing the Uniform Standards of Professional Appraisal Practices that the officers, managers, or owners must pledge that they will comply. (Section 12).

The bill amends s. 475.624(14), F.S., which provides the disciplinary provisions for appraisers, to reference standards of professional practice adopted by rule of the Florida Real Estate Appraisal Board. **(**Section 13).

The bill amends s. 475.6245(1), F.S., which provides the disciplinary provisions for appraisal management companies, to reference standards of professional practice adopted by rule of the Florida Real Estate Appraisal Board. **(**Section 14).

The bill amends s. 475.628, F.S., which specifies the professional standards with which registered, licensed, and certified appraisers are required to comply, to require the Florida Real Estate Appraisal Board to adopt rules that establish standards of professional practice that meet or exceed nationally recognized standards of appraisal practice, including standards adopted by the Appraisal Standards Board of the Appraisal Foundation.[8] It also references the standards of professional practice adopted by rule of the Florida Real Estate Appraisal Board. **(**Section 16).

Continuing Education for Inactive and Delinquent Licenses

The bill amends s. 455.271(10), F.S., to require only one renewal cycle of continuing education to reactivate a license for the professions regulated by a board of the department, or the department if there is no board. It reduces the continuing education requirements for renewal of inactive license to only one renewal cycle of hours, instead of the hours required for each year or two-year period that the license was inactive. The bill exempts certified public accountants licensed under ch. 473, F.S., and real estate brokers, sales associates, real estate schools, and appraisers licensed under ch. 474, F.S. These professionals would have to complete the continuing education required for each two-year period of licensure. (Section 2).

The bill also reduces the continuing education hours required to reactivate an inactive license to only one renewal cycle of hours, instead of the hours required for each year the license was inactive, for the following professions:

- Community association managers in s. 468.4338, F.S. **(**Section 4);
- Home inspectors in s. 468.8317, F.S. **(**Section 5);
- Mold-related services in s. 468.8417, F.S. **(**Section 6);

[8] Established in 1986, the Appraisal Foundation is composed of professional appraisal organizations in the United States and Canada. Its mission is to establish generally accepted standards of professional practice, i.e., the Uniform Standards of Professional Appraisal Practice (USPAP). The Appraisal Standards Board sets forth the rules for developing and reporting its results. It also promotes the use, understanding and enforcement of the USPAP. Information about the Appraisal Foundation is available at: http://www.appraisalfoundation.org/ (Last visited January 13, 2012).

- Cosmetology in s. 477.0212(2), F.S. **(**Section 18);
- Architecture and interior design in s. 481.217(1), F.S. **(**Section 20);
- Landscape architecture in s. 481.315(1), F.S. **(**Section 21);
- Construction contracting in s. 489.116(6), F.S. **(**Section 22); and
- Electrical and alarm system contracting in s. 489.519(1), F.S. **(**Section 23).

The bill also amends s. 481.217(1), F.S.; to clarify that the Board of Architecture and Interior Design may only approve continuing education for an interior designer that builds upon the basic knowledge of interior design.

Repeal of Criminal Penalties
The bill amends s. 468.391, F.S., to limit the application of criminal penalties relating to auctioneering. The criminal penalties would not apply to violations of rules of the Florida Board of Auctioneers or violations of part VI of ch. 468, F.S. The bill limits the application of criminal penalties to the violations related to the following paragraphs in s. 468.389(1), F.S. (Section 3):

> (c) Failure to account for or to pay or return, within a reasonable time not to exceed 30 days, money or property belonging to another which has come into the control of an auctioneer or auction business through an auction.
> (e) Any conduct in connection with a sales transaction which demonstrates bad faith or dishonesty.
> (f) Using or permitting the use of false bidders, cappers, or shills.
> (h) Commingling money or property of another person with his or her own. Every auctioneer and auction business shall maintain a separate trust or escrow account in an insured bank or savings and loan association located in this state in which shall be deposited all proceeds received for another person through an auction sale.
> (i) Refusal or neglect of any auctioneer or other receiver of public moneys to pay the moneys so received into the State Treasury at the times and under the regulations prescribed by law.

The bill also repeals the following provisions that provide criminal penalties for violations of agency rules and the chapters of the Florida Statutes that govern the specified professions:

- Section 475.42(1)(e), F.S., relating to violations of rules of the Florida Real Estate Commission and violations of ch. 475, F.S. (Section 8);
- Section 476.194(1)(b), F.S., relating to violations of rules of the Barbers' Board, and violations of ch. 476, F.S. (Section 17); and
- Section 477.0265(1)(c), F.S., relating to violations of the Board of Cosmetology and ch. 477, F.S. (Section 19).

Repeal of Redundant Penalties
The bill repeals paragraphs (b) and (c) of s. 475.626(1), F.S., which provide violations and penalties for real estate appraisers. These provisions are redundant of other provisions in this section. Section 475.626(1)(b), F.S., which prohibits violating any lawful order or rule of the board which is binding on him or her, is addressed in s. 475.624(4), F.S. Section 475.626(1)(c),

F.S., which provides that a trainee appraiser or a licensed or certified appraiser may not commit any conduct set forth in s. 475.624, F.S., is addressed by s. 475.624, F.S., which contains prohibitions that apply to trainee appraisers, and licensed or certified appraisers. (Section 15).

Effective Date
The bill provides an effective date of July 1, 2012.

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:

None.

B. Private Sector Impact:

The reduction in the number of continuing education hours required to reactivate an inactive license would reduce costs for the following professionals with inactive licenses: community association managers, home inspectors, providers of mold-related services, cosmetologists, architects, landscape architects, construction contractors, and electrical and alarm system contractors. The bill may reduce the amount paid by the licensees to private continuing education providers.

C. Government Sector Impact:

According to the department, it would see no increase or decrease in revenue. The costs of continuing education courses are paid by the licensees directly to the private sector course provider and not to the department. Therefore, the reduction in the number of continuing education hours required to reactivate an inactive license would not affect the department.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Hays

20-00549-12 2012762__

A bill to be entitled

An act relating to the practice of professions regulated by the Department of Business and Professional Regulation; amending s. 373.461, F.S.; providing for the use of the standards of professional practice established by the Real Estate Appraisal Board in connection with the purchase of land to restore Lake Apopka; amending s. 455.271, F.S.; reducing the maximum amount of continuing education that may be required by the Department of Business and Professional Regulation or one of its boards to reactivate certain inactive licenses; amending s. 468.391, F.S.; exempting certain types of misconduct relating to auction businesses from being penalized as a felony; amending s. 468.4338, F.S.; reducing the maximum amount of continuing education that may be required by the Regulatory Council of Community Association Managers to reactivate an inactive license; amending s. 468.8317, F.S.; reducing the maximum amount of continuing education that may be required by the Department of Business and Professional Regulation for an inactive home inspection services license; amending s. 468.8417, F.S.; reducing the maximum amount of continuing education that may be required by Department of Business and Professional Regulation to reactivate an inactive mold-related services license; amending s. 475.25, F.S.; subjecting a person to discipline for a violation of rule of the Real Estate Appraisal Board;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30 amending s. 475.42, F.S.; deleting a provision
31 prohibiting a person from violating a lawful order or
32 rule of the Real Estate Commission; amending s.
33 475.615, F.S.; requiring an applicant for registration
34 or certification as a real estate appraiser to pledge
35 to comply with the standards of professional practice
36 established by the Real Estate Appraisal Board;
37 amending s. 475.617, F.S.; authorizing the Real Estate
38 Appraisal Board to approve courses covering subjects
39 equivalent to the Uniform Standards of Professional
40 Appraisal Practice to satisfy the academic course
41 requirements for registration as a trainee appraiser,
42 residential appraiser, or general appraiser; amending
43 s. 475.6175, F.S.; authorizing the Real Estate
44 Appraisal Board to approve courses covering subjects
45 equivalent to the Uniform Standards of Professional
46 Appraisal Practice to satisfy the postlicensure
47 educational requirements for trainee appraisers;
48 amending s. 475.6235, F.S.; requiring an applicant for
49 registration of an appraisal management company to
50 pledge to comply with the standards of professional
51 practice established by the Real Estate Appraisal
52 Board; amending s. 475.624, F.S.; authorizing the Real
53 Estate Appraisal Board to discipline certain
54 appraisers who violate a standard of professional
55 practice established by board rule; amending s.
56 475.6245, F.S.; authorizing the Real Estate Appraisal
57 Board to discipline an appraisal management company
58 that violates a standard of professional practice

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59 adopted by board rule; amending s. 475.626, F.S.;
60 deleting provisions subjecting a person to criminal
61 penalties for engaging in certain types of misconduct
62 relating to real estate appraisals; amending s.
63 475.628, F.S.; authorizing the Real Estate Appraisal
64 Board to adopt rules of standards of professional
65 practice established by the Appraisal Standards Board
66 of the Appraisal Foundation; amending s. 476.194,
67 F.S.; deleting a provision subjecting a person to
68 criminal penalties for engaging in willful or repeated
69 violations of laws or rules regulating the practice of
70 barbering; amending s. 477.0212, F.S.; reducing the
71 maximum amount of continuing education that may be
72 required by the Board of Cosmetology to reactivate an
73 inactive cosmetologist's license; amending s.
74 477.0265, F.S.; deleting a provision subjecting a
75 person to criminal penalties for engaging in willful
76 or repeated violations of laws or rules regulating
77 cosmetology; amending s. 481.217, F.S.; reducing the
78 maximum amount of continuing education that may be
79 required by the Board of Architecture and Interior
80 Design to reactivate an inactive registered architect
81 or an interior designer license; amending s. 481.315,
82 F.S.; reducing the maximum amount of continuing
83 education that may be required by the Board of
84 Landscape Architecture to reactivate certain inactive
85 licenses; amending s. 489.116, F.S.; requiring a
86 person to meet certain continuing education
87 requirements as a prerequisite to reactivate an

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88 inactive certificate or registration with the
89 Construction Industry Licensing Board; reducing the
90 maximum amount of continuing education that may be
91 required by the Construction Industry Licensing Board
92 to reactivate certain inactive certificates or
93 registrations; amending s. 489.519, F.S.; reducing the
94 maximum amount of continuing education that may be
95 required by the Electrical Contractors' Licensing
96 Board to reactivate certain inactive certificates or
97 registrations; providing an effective date.
98
99 Be It Enacted by the Legislature of the State of Florida:
100
101 Section 1. Paragraph (c) of subsection (5) of section
102 373.461, Florida Statutes, is amended to read:
103 373.461 Lake Apopka improvement and management.—
104 (5) PURCHASE OF AGRICULTURAL LANDS.—
105 (c) The district shall explore the availability of funding
106 from all sources, including any federal, state, regional, and
107 local land acquisition funding programs, to purchase the
108 agricultural lands described in paragraph (a). The Legislature
109 intends ~~It is the Legislature's intent~~ that, if such funding
110 sources can be identified, acquisition of the lands described in
111 paragraph (a) may be undertaken by the district to purchase
112 these properties from willing sellers. However, the purchase
113 price paid for acquisition of such lands that were in active
114 cultivation during 1996 may ~~shall~~ not exceed the highest
115 appraisal obtained by the district for these lands from a state-
116 certified general appraiser following the standards of

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117 professional practice adopted by rule of the Florida Real Estate
118 Appraisal Board, including standards for the development or
119 communication of a real estate appraisal ~~Uniform Standards of~~
120 ~~Professional Appraisal Practice~~. This maximum purchase price
121 limitation does ~~shall~~ not include, or apply ~~nor be applicable~~
122 to, that portion of the purchase price attributable to
123 consideration of income described in paragraph (b), or that
124 portion attributable to related facilities, or closing costs.
125 Section 2. Subsection (10) of section 455.271, Florida
126 Statutes, is amended to read:
127 455.271 Inactive and delinquent status.—
128 (10) The board, or the department if there is no board, may
129 not require ~~Before reactivation,~~ an inactive or delinquent
130 licensee, except for a licensee under chapter 473 or chapter
131 475, to complete more than one renewal cycle of ~~shall meet the~~
132 ~~same~~ continuing education in order to reactivate a license.
133 ~~requirements, if any, imposed on an active status licensee for~~
134 ~~all biennial licensure periods in which the licensee was~~
135 ~~inactive or delinquent. This subsection does not apply to~~
136 ~~persons regulated under chapter 473.~~
137 Section 3. Section 468.391, Florida Statutes, is amended to
138 read:
139 468.391 Penalty.—Any auctioneer, apprentice, or auction
140 business or any owner or manager thereof, or, in the case of
141 corporate ownership, any substantial stockholder of the
142 corporation owning the auction business, who operates without an
143 active license or engages in an act that is grounds for
144 disciplinary action ~~violates any provision of the prohibited~~
145 ~~acts listed~~ under s. 468.389(1)(c), (e), (f), (h), or (i)

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146 commits a felony of the third degree, punishable as provided in
147 s. 775.082 or s. 775.083.
148 Section 4. Section 468.4338, Florida Statutes, is amended
149 to read:
150 468.4338 Reactivation; continuing education.—The council
151 shall prescribe by rule continuing education requirements for
152 reactivating a license. The continuing education requirements
153 for reactivating a license may not exceed more than one renewal
154 cycle of continuing education ~~exceed 10 classroom hours for each~~
155 ~~year the license was inactive~~.
156 Section 5. Subsection (2) of section 468.8317, Florida
157 Statutes, is amended to read:
158 468.8317 Inactive license.—
159 (2) A license that becomes ~~has become~~ inactive may be
160 reactivated upon application to the department. The department
161 may prescribe by rule continuing education requirements for ~~as a~~
162 ~~condition of~~ reactivating a license. The rules may not require
163 more than one renewal cycle of continuing education in order to
164 reactivate ~~requirements for reactivating~~ a license ~~may not~~
165 ~~exceed 14 hours for each year the license was inactive~~.
166 Section 6. Subsection (2) of section 468.8417, Florida
167 Statutes, is amended to read:
168 468.8417 Inactive license.—
169 (2) A license that becomes ~~has become~~ inactive may be
170 reactivated upon application to the department. The department
171 may prescribe by rule continuing education requirements as a
172 condition of reactivating a license. The rules may not require
173 more than one renewal cycle of continuing education in order to
174 reactivate ~~requirements for reactivating~~ a license ~~may not~~

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175 ~~exceed 14 hours for each year the license was inactive~~.
176 Section 7. Paragraph (t) of subsection (1) of section
177 475.25, Florida Statutes, is amended to read:
178 475.25 Discipline.—
179 (1) The commission may deny an application for licensure,
180 registration, or permit, or renewal thereof; may place a
181 licensee, registrant, or permittee on probation; may suspend a
182 license, registration, or permit for a period not exceeding 10
183 years; may revoke a license, registration, or permit; may impose
184 an administrative fine not to exceed $5,000 for each count or
185 separate offense; and may issue a reprimand, and any or all of
186 the foregoing, if it finds that the licensee, registrant,
187 permittee, or applicant:
188 (t) Has violated any standard of professional practice
189 adopted by rule of the Real Estate Appraisal Board, including
190 standards for the development or communication of a real estate
191 appraisal ~~or other provision of the Uniform Standards of~~
192 ~~Professional Appraisal Practice, as defined in s. 475.611,~~ as
193 approved and adopted by the Appraisal Standards Board of the
194 Appraisal Foundation, as defined in s. 475.611. This paragraph
195 does not apply to a real estate broker or sales associate who,
196 in the ordinary course of business, performs a comparative
197 market analysis, gives a broker price opinion, or gives an
198 opinion of value of real estate. However, ~~in no event may~~ this
199 comparative market analysis, broker price opinion, or opinion of
200 value of real estate may not be referred to as an appraisal, as
201 defined in s. 475.611.
202 Section 8. Paragraph (e) of subsection (1) of section
203 475.42, Florida Statutes, is amended, and present paragraphs (f)

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204 through (o) of that subsection are redesignated as paragraphs
205 (e) through (n), respectively, to read:
206 475.42 Violations and penalties.—
207 (1) VIOLATIONS.—
208 ~~(e) A person may not violate any lawful order or rule of~~
209 ~~the commission which is binding upon her or him.~~
210 Section 9. Subsection (5) of section 475.615, Florida
211 Statutes, is amended to read:
212 475.615 Qualifications for registration or certification.—
213 (5) At the time of filing an application for registration
214 or certification, the applicant must sign a pledge indicating
215 that upon becoming registered or certified, the person will
216 comply with the standards of professional practice adopted by
217 board rule, including standards for the development or
218 communication of a real estate appraisal. The applicant ~~to~~
219 ~~comply with the Uniform Standards of Professional Appraisal~~
220 ~~Practice upon registration or certification and~~ must also
221 indicate in writing that she or he understands the types of
222 misconduct for which disciplinary proceedings may be initiated.
223 The application expires ~~shall expire~~ 1 year after the date it is
224 received by the department.
225 Section 10. Subsections (1), (2), and (3) of section
226 475.617, Florida Statutes, are amended to read:
227 475.617 Education and experience requirements.—
228 (1) To be registered as a trainee appraiser, an applicant
229 must present evidence satisfactory to the board that she or he
230 has successfully completed at least 100 hours of approved
231 academic courses in subjects related to real estate appraisal,
232 which shall include coverage of the Uniform Standards of

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233 Professional Appraisal Practice, or its equivalent, adopted by
234 board rule, from a nationally recognized or state-recognized
235 appraisal organization, career center, accredited community
236 college, college, or university, state or federal agency or
237 commission, or proprietary real estate school that holds a
238 permit pursuant to s. 475.451. The board may increase the
239 required number of hours to not more than 125 hours. A classroom
240 hour is defined as 50 minutes out of each 60-minute segment.
241 Past courses may be approved on an hour-for-hour basis.
242 (2) To be certified as a residential appraiser, an
243 applicant must present satisfactory evidence to the board that
244 she or he has met the minimum education and experience
245 requirements prescribed by rule of the board. The board shall
246 prescribe by rule education and experience requirements that
247 meet or exceed the following real property appraiser
248 qualification criteria adopted on February 20, 2004, by the
249 Appraisal Qualifications Board of the Appraisal Foundation:
250 (a) Has at least 2,500 hours of experience obtained over a
251 24-month period in real property appraisal as defined by rule.
252 (b) Has successfully completed at least 200 classroom
253 hours, inclusive of examination, of approved academic courses in
254 subjects related to real estate appraisal, which must ~~shall~~
255 include a 15-hour National Uniform Standards of Professional
256 Appraisal Practice course, or its equivalent, adopted by board
257 rule, from a nationally recognized or state-recognized appraisal
258 organization, career center, accredited community college,
259 college, or university, state or federal agency or commission,
260 or proprietary real estate school that holds a permit pursuant
261 to s. 475.451. A classroom hour is defined as 50 minutes out of

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262 each 60-minute segment. Past courses may be approved by the
263 board and substituted on an hour-for-hour basis.
264 (3) To be certified as a general appraiser, an applicant
265 must present evidence satisfactory to the board that she or he
266 has met the minimum education and experience requirements
267 prescribed by rule of the board. The board shall prescribe
268 education and experience requirements that meet or exceed the
269 following real property appraiser qualification criteria adopted
270 on February 20, 2004, by the Appraisal Qualifications Board of
271 the Appraisal Foundation:
272 (a) Has at least 3,000 hours of experience obtained over a
273 30-month period in real property appraisal as defined by rule.
274 (b) Has successfully completed at least 300 classroom
275 hours, inclusive of examination, of approved academic courses in
276 subjects related to real estate appraisal, which must ~~shall~~
277 include a 15-hour National Uniform Standards of Professional
278 Appraisal Practice course, or its equivalent, adopted by board
279 rule, from a nationally recognized or state-recognized appraisal
280 organization, career center, accredited community college,
281 college, or university, state or federal agency or commission,
282 or proprietary real estate school that holds a permit pursuant
283 to s. 475.451. A classroom hour is defined as 50 minutes out of
284 each 60-minute segment. Past courses may be approved by the
285 board and substituted on an hour-for-hour basis.
286 Section 11. Subsection (1) of section 475.6175, Florida
287 Statutes, is amended to read:
288 475.6175 Registered trainee appraiser; postlicensure
289 education required.—
290 (1) The board shall prescribe postlicensure educational

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291 requirements in order for a person to maintain a valid
292 registration as a registered trainee appraiser. If prescribed,
293 the postlicensure educational requirements consist of one or
294 more courses which total no more than the total educational
295 hours required to qualify as a state certified residential
296 appraiser. Such courses must be in subjects related to real
297 estate appraisal and shall include coverage of the Uniform
298 Standards of Professional Appraisal Practice, or its equivalent,
299 adopted by board rule. Such courses are provided by a nationally
300 or state-recognized appraisal organization, career center,
301 accredited community college, college, or university, state or
302 federal agency or commission, or proprietary real estate school
303 that holds a permit pursuant to s. 475.451.
304 Section 12. Subsection (4) of section 475.6235, Florida
305 Statutes, is amended to read:
306 475.6235 Registration of appraisal management companies
307 required.—
308 (4) At the time of filing an application for registration
309 of an appraisal management company, each person listed in
310 paragraph (2)(f) must sign a pledge to comply with the standards
311 of professional practice adopted by board rule, including
312 standards for the development or communication of a real estate
313 appraisal. Each person ~~Uniform Standards of Professional~~
314 ~~Appraisal Practice upon registration and~~ must also indicate in
315 writing that she or he understands the types of misconduct for
316 which disciplinary proceedings may be initiated. The application
317 expires ~~shall expire~~ 1 year after the date it is received by the
318 department.
319 Section 13. Subsection (14) of section 475.624, Florida

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320 Statutes, is amended to read:
321 475.624 Discipline of appraisers.—The board may deny an
322 application for registration or certification of an appraiser;
323 may investigate the actions of any appraiser registered,
324 licensed, or certified under this part; may reprimand or impose
325 an administrative fine not to exceed $5,000 for each count or
326 separate offense against any such appraiser; and may revoke or
327 suspend, for a period not to exceed 10 years, the registration,
328 license, or certification of any such appraiser, or place any
329 such appraiser on probation, if the board finds that the
330 registered trainee, licensee, or certificateholder:
331 (14) Has violated any standard of professional practice,
332 including standards for the development or communication of a
333 real estate appraisal, adopted by board rule ~~or other provision~~
334 ~~of the Uniform Standards of Professional Appraisal Practice~~.
335 Section 14. Paragraph (n) of subsection (1) of section
336 475.6245, Florida Statutes, is amended to read:
337 475.6245 Discipline of appraisal management companies.—
338 (1) The board may deny an application for registration of
339 an appraisal management company; may investigate the actions of
340 any appraisal management company registered under this part; may
341 reprimand or impose an administrative fine not to exceed $5,000
342 for each count or separate offense against any such appraisal
343 management company; and may revoke or suspend, for a period not
344 to exceed 10 years, the registration of any such appraisal
345 management company, or place any such appraisal management
346 company on probation, if the board finds that the appraisal
347 management company or any person listed in s. 475.6235(2)(f):
348 (n) Has instructed an appraiser to violate any standard of

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349 professional practice adopted by board rule, including standards
350 for the development or communication of a real estate appraisal
351 or other provision of the Uniform Standards of Professional
352 Appraisal Practice.
353 Section 15. Paragraphs (b) and (c) of subsection (1) of
354 section 475.626, Florida Statutes, are amended, and present
355 paragraphs (d) through (h) of that subsection are redesignated
356 as paragraphs (b) through (f), respectively, to read:
357 475.626 Violations and penalties.—
358 (1) A person may not:
359 ~~(b) Violate any lawful order or rule of the board which is~~
360 ~~binding upon her or him.~~
361 ~~(c) If a registered trainee appraiser or a licensed or~~
362 ~~certified appraiser, commit any conduct or practice set forth in~~
363 ~~s. 475.624.~~
364 Section 16. Section 475.628, Florida Statutes, is amended
365 to read:
366 475.628 Professional standards for appraisers registered,
367 licensed, or certified under this part.—The board shall adopt
368 rules establishing standards of professional practice that meet
369 or exceed nationally recognized standards of appraisal practice,
370 including standards adopted by the Appraisal Standards Board of
371 the Appraisal Foundation. Each appraiser registered, licensed,
372 or certified under this part must ~~shall~~ comply with the rules
373 adopted by the board ~~Uniform Standards of Professional Appraisal~~
374 ~~Practice~~. Statements on appraisal standards that are ~~which may~~
375 ~~be~~ issued for the purpose of clarification, interpretation,
376 explanation, or elaboration through the Appraisal Foundation are
377 ~~shall~~ also ~~be~~ binding on any appraiser registered, licensed, or

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378 certified under this part, upon adoption by board rule.
379 Section 17. Subsection (1) of section 476.194, Florida
380 Statutes, is amended to read:
381 476.194 Prohibited acts.—
382 (1) A ~~It is unlawful for any~~ person may not ~~to~~:
383 (a) Engage in the practice of barbering without an active
384 license as a barber issued pursuant to the provisions of this
385 chapter ~~act~~ by the department.
386 ~~(b) Engage in willful or repeated violations of this act or~~
387 ~~of any of the rules adopted by the board.~~
388 (b) ~~(c)~~ Hire or employ any person to engage in the practice
389 of barbering unless the ~~such~~ person holds a valid license as a
390 barber.
391 (c) ~~(d)~~ Obtain or attempt to obtain a license for money
392 other than the required fee or any other thing of value or by
393 fraudulent misrepresentations.
394 (d) ~~(e)~~ Own, operate, maintain, open, establish, conduct, or
395 have charge of, either alone or with another person or persons,
396 a barbershop:
397 1. That ~~Which~~ is not licensed under ~~the provisions of~~ this
398 chapter; or
399 2. In which a person not licensed as a barber is permitted
400 to perform services.
401 (e) ~~(f)~~ Use or attempt to use a license to practice
402 barbering which ~~when said license~~ is suspended or revoked.
403 Section 18. Subsection (2) of section 477.0212, Florida
404 Statutes, is amended to read:
405 477.0212 Inactive status.—
406 (2) The board shall adopt ~~promulgate~~ rules relating to

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407 licenses that ~~which have~~ become inactive and for the renewal of
408 inactive licenses. The rules may not require more than one
409 renewal cycle of continuing education in order to reactivate a
410 license. The board shall prescribe by rule a fee not to exceed
411 $50 for the reactivation of an inactive license and a fee not to
412 exceed $50 for the renewal of an inactive license.
413 Section 19. Subsection (1) of section 477.0265, Florida
414 Statutes, is amended to read:
415 477.0265 Prohibited acts.—
416 (1) A ~~It is unlawful for any~~ person may not ~~to~~:
417 (a) Engage in the practice of cosmetology or a specialty
418 without an active license as a cosmetologist or registration as
419 a specialist issued by the department under ~~pursuant to~~ ~~the~~
420 ~~provisions of~~ this chapter.
421 (b) Own, operate, maintain, open, establish, conduct, or
422 have charge of, either alone or with another person or persons,
423 a cosmetology salon or specialty salon:
424 1. That ~~Which~~ is not licensed under ~~the provisions of~~ this
425 chapter; or
426 2. In which a person not licensed or registered as a
427 cosmetologist or a specialist is permitted to perform
428 cosmetology services or any specialty.
429 ~~(c) Engage in willful or repeated violations of this~~
430 ~~chapter or of any rule adopted by the board.~~
431 (c)~~(d)~~ Permit an employed person to engage in the practice
432 of cosmetology or of a specialty unless such person holds a
433 valid, active license as a cosmetologist or registration as a
434 specialist.
435 (d)~~(e)~~ Obtain or attempt to obtain a license or

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436 registration for money, other than the required fee, or any
437 other thing of value or by fraudulent misrepresentations.
438 (e) ~~(f)~~ Use or attempt to use a license to practice
439 cosmetology or a registration to practice a specialty, which
440 license or registration is suspended or revoked.
441 (f) ~~(g)~~ Advertise or imply that skin care services or body
442 wrapping, as performed under this chapter, have any relationship
443 to the practice of massage therapy as defined in s. 480.033(3),
444 except those practices or activities defined in s. 477.013.
445 (g) ~~(h)~~ In the practice of cosmetology, use or possess a
446 cosmetic product containing a liquid nail monomer containing any
447 trace of methyl methacrylate (MMA).
448 Section 20. Subsection (1) of section 481.217, Florida
449 statutes, is amended to read:
450 481.217 Inactive status.—
451 (1) The board may prescribe by rule continuing education
452 requirements as a condition of reactivating a license. The rules
453 may not require more than one renewal cycle of continuing
454 education in order to reactivate ~~requirements for reactivating~~ a
455 license for a registered architect or interior designer ~~may not~~
456 ~~exceed 12 contact hours for each year the license was inactive~~.
457 ~~The minimum continuing education requirement for reactivating a~~
458 ~~license for a registered interior designer shall be those of the~~
459 ~~most recent biennium plus one-half of the requirements in s.~~
460 ~~481.215 for each year or part thereof during which the license~~
461 ~~was inactive.~~ The board may ~~shall~~ only approve continuing
462 education for an interior designer which ~~that~~ builds upon the
463 basic knowledge of interior design.
464 Section 21. Subsection (1) of section 481.315, Florida

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465 Statutes, is amended to read:
466 481.315 Inactive status.—
467 (1) A license that has become inactive or delinquent may be
468 reactivated under this section upon application to the
469 department and payment of any applicable biennial renewal or
470 delinquency fee, or both, and a reactivation fee. The board may
471 not require a licensee to complete more than one renewal cycle
472 of continuing education requirements in order to reactivate a
473 license. ~~The board may prescribe by rule continuing education~~
474 ~~requirements as a condition of reactivating the license. The~~
475 ~~continuing education requirements for reactivating a license may~~
476 ~~not exceed 12 classroom hours for each year the license was~~
477 ~~inactive.~~
478 Section 22. Subsections (3) and (6) of section 489.116,
479 Florida Statutes, are amended to read:
480 489.116 Inactive and delinquent status; renewal and
481 cancellation notices.—
482 (3) An inactive status certificateholder or registrant may
483 change to active status at any time, if ~~provided~~ the
484 certificateholder or registrant meets all requirements for
485 active status, pays any additional licensure fees necessary to
486 equal those imposed on an active status certificateholder or
487 registrant, ~~and~~ pays any applicable late fees, and meets all
488 continuing education requirements prescribed by the board.
489 (6) The board may not require an inactive certificateholder
490 or registrant to complete more than one renewal cycle of ~~shall~~
491 ~~comply with the same~~ continuing education for reactivating a
492 certificate or registration ~~requirements, if any, that are~~
493 ~~imposed on an active status certificateholder or registrant~~.

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494 Section 23. Subsection (1) of section 489.519, Florida
495 Statutes, is amended to read:
496 489.519 Inactive status.—
497 (1) A certificate or registration that becomes ~~has become~~
498 inactive may be reactivated under s. 489.517 upon application to
499 the department. The board may not require a licensee to complete
500 more than one renewal cycle of ~~prescribe, by rule,~~ continuing
501 education in order to reactivate ~~requirements as a condition of~~
502 ~~reactivating~~ a certificate or registration. ~~The continuing~~
503 ~~education requirements for reactivating a certificate or~~
504 ~~registration may not exceed 12 classroom hours for each year the~~
505 ~~certificate or registration was inactive.~~
506 Section 24. This act shall take effect July 1, 2012.

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The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 762
FINAL ACTION: Favorable
MEETING DATE: Thursday, January 19, 2012
TIME: 8:15 —10:00 a.m.
PLACE: 110 Senate Office Building

FINAL VOTE			1/19/2012 8:15AM 1 Motion to vote "YEA" after Roll Call Bogdanoff					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Altman						
X		Bogdanoff						
X		Braynon						
X		Dean						
X		Diaz de la Portilla						
X		Rich						
X		Siplin						
X		Thrasher						
X		Sachs, VICE CHAIR						
X		Jones, CHAIR						
10	0	**TOTALS**	FAV	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order

REPORTING INSTRUCTION: Publish
01192012.1046

S0762
GENERAL BILL by Hays; (Similar H 0517)
Practice of Professions Regulated by Department of Business and Professional Regulation. EFFECTIVE DATE: 07/01/2012.
01/13/12 S On Committee agenda-- Regulated Industries, 01/19/12, 8:15 am, 110 Senate Office Building
01/19/12 S Favorable by Regulated Industries; YEAS 10 NAYS 0; Now in Criminal Justice

SENATOR D. ALAN HAYS
20th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on General Government
  Appropriations, *Chair*
Agriculture
Banking and Insurance
Budget
Budget - Subcommittee on Higher Education
  Appropriations
Criminal Justice
Reapportionment

JOINT COMMITTEE:
Administrative Procedures

November 18, 2011

Senator Dennis L. Jones, DC., Chair
Committee on Regulated Industries
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: SB 654 – Euthanasia of Domestic Animals and SB 762 – Practice of Professions

Dear Chairman Jones:

I respectfully request my above referenced bills be heard before your committee.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

D. Alan Hays, DMD

D. Alan Hays, DMD
State Senator, District 20

CC: Booter Imhof, Staff Director

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12
Meeting Date

Topic: DBPR

Bill Number: 762 *(if applicable)*

Name: Ken Lawson

Amendment Barcode: *(if applicable)*

Job Title: Secretary

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Speaking: [X] For [ ] Against [ ] Information

Representing: Department of Business and Professional Regulation

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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 380

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Game Promotion

DATE: January 17, 2012 REVISED:

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

I. Summary:

This bill amends game promotions, which are authorized under s. 849.094, F.S. Under current law, all game promotions with a total announced prize over $5,000 must register the game promotion with the Department of Agriculture and Consumer Services (DACS), file with DACS a copy of the rules and regulations of the game promotion and a list of all prizes offered, file a $100 filing fee, and establish a trust account. Each game promotion operator must also provide DACS with a certified list of the names and addresses of all persons who have won prizes that value more than $25.

This bill increases the regulations that apply to electronic game promotions or game promotions that provide electronic devices or computer terminals with video display monitors that reveal or display the results of a game promotion. This bill requires every electronic game promotion with a total prize value over $1 to register with DACS, file a copy of the rules and regulations of the game promotion, and establish a trust account. In addition, each operator of an electronic game promotion, regardless of prize amount, must submit a $100 per electronic device or computer terminal fee as well as an independent certification that the game promotion software operates only games with a preconfigured finite pool of entries, provides an entrant with the ability to participate in the absence of a purchase, does not distinguish an entrant who has made a purchase from one who has not, and uses video displays that do not determine the result of the game promotion.

This bill provides that counties or municipalities may adopt ordinances, codes, plans, rules, resolutions, or other measures to limit or regulate electronic game promotions, including, but not limited to, permitting, fees, fines, location, signage, security, or other enforcement provisions.

The bill prohibits the use of mechanical or electromechanical reels in connection with a game promotion.

The bill takes effect on July 1, 2012.

This bill substantially amends the following section of the Florida Statutes: 849.094.

II. Present Situation:

Game Promotions
Although gambling is generally illegal,[1] game promotions are regulated under s. 849.094, F.S.[2] In 1971, the Legislature enacted s. 849.094, F.S., which provides for game promotions in connection with the sale of consumer products.[3] 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. However, "game promotion" shall not be construed to apply to bingo games conducted pursuant to s. 849.0931.

This provision is intended to allow companies to promote their products or services with a promotion. Prior to the passage of this statute, game promotions were considered illegal lotteries.

A game promoter, or "operator," is defined as "any person, firm, corporation, or association or agent or employee thereof who promotes, operates, or conducts a game promotion, except any charitable nonprofit organization."[4]

The law prohibits operators from manipulating their game promotion 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:[5]

- 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.

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[1] Section 849.08, F.S., provides that"[w]hoever plays or engages in any game at cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083."
[2] Section 849.094, F.S., does not explicitly authorize game promotions but instead defines the term "game promotion" and provides requirements for the conduct of certain game promotions. *See Beasley Broadcasting, Inc. v. Department of State, Division of Licensing,* 693 So.2d 668 (Fla. 2d DCA 1997).
[3] *See* ss. 1-9, ch. 71-304, L.O.F.
[4] Section 849.094(1)(b), F.S.
[5] Sections 849.094(2) and (7), F.S.

There is no license required to conduct a game promotion and game promotion proceeds are not taxed. Instead, operators of a game promotion with an announced total prize value of greater than $5,000 must register the game promotion with the Department of Agriculture and Consumer Services (DACS or department) [6] and comply with the following requirements:

- File with DACS at least 7 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 must accompany each filing.[7]
- 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.[8]
- 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.[9]
- Financially back the prize pool with either a trust account or a surety bond.[10]
    - The trust account must be obtained through 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 7 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 5 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 6 months before disposing of it.[11]

The department has the authority to adopt rules to enforce the game promotion statute. Also, the department 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.[12] The

[6] Section 849.094(3), F.S.
[7] *Id.*
[8] Section 849.094(3), F.S.
[9] *Id.*
[10] Section 849.094(4), F.S.
[11] Section 849.094(5), F.S.
[12] Section 849.094(9), F.S.

department may also pursue civil penalties against violators of up to $1,000 per violation, such as failure to post the game promotion rules or failing to maintain a surety bond in the amount of the total prize pot.

Section 849.094(10), F.S., provides that "this section does not apply" to activities or transactions regulated by the Department of Business and Professional Regulation, the activities of nonprofit organizations, or to any organization engaged in activities that do not involve the sale of consumer products or services. Also, DACS' 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. There is nothing in the statute that expressly authorizes or prohibits the use of electronic devices to aid in game promotions. Because electronic game promotions may look or function similar to slot machines, there is some uncertainty as to their legality.

Electronic Game Promotions or Internet Cafes

Internet Cafes or operators of electronic game promotions operate a game promotion through the use of an electronic computer terminal or other electronic device. There is no official estimate for how many Internet Cafes exist in the state but representatives of the industry estimate that there are somewhere between 450 to 1,000 Internet Cafes in Florida. According to a representative from DACS, there are eleven electronic sweepstakes currently registered as of January 2012.[13]

Electronic game promotions work similarly to other game promotions operated across the country. The customer, in most cases, purchases Internet time or long-distance calling cards (the consumer goods or service), and receives free entries into a game promotion. Customers of the Internet Cafe are not required to purchase anything in order to receive entries in the game promotion.[14]

A central computer server at the Internet Cafe randomly picks entries for the customer from the predetermined, finite pool of entries at the time when the customer purchases the consumer product. The calling minutes or Internet time along with the game promotion entries are typically associated with the customer's account at the time of purchase to allow the customer to access those entries and Internet time with an electronic card that can be swiped at any of the computers in the Internet Cafe.[15]

The customer can use the computer terminals to reveal the entries in an "entertaining fashion" or the customer can access the Internet. If the customer does not wish to reveal the entries in an

[13] Six of the registered game promotions sell phone time and five sell Internet time. The representative from DACS stressed that although only 11 are registered, each game promotion operates at multiple locations. In addition, only game promotions with prize pools over $5,000 are registered.

[14] Section 849.094(2)(e), F.S., provides that it is unlawful for a game promotion operator to charge for entries into the sweepstakes.

[15] The game promotion entries are not loaded on to a play card but are associated with the account for the customer so that the customer or the cashier can immediately determine if the entries are winners.

entertaining fashion, the customer can ask the Internet Cafe attendant to swipe the card and tell the customer whether he or she has any winning entries.

Typically, the Internet Cafe customers swipe the electronic card through a card reader on the computers and select the type of game they want to play; the games are often referred to as "simulated games" because the games have no impact on the outcome of the game promotion or sweepstakes. The simulated games often resemble "casino-style games" such as poker, blackjack, slots, roulette, or even arcade style games such as matching or Tetris-type games. The games are interactive but the interaction has no effect on whether the player wins or loses. Even games that appear skill based are not; the entries received by the patron are already predetermined as winners or losers. Whether the customer is a winner in the game promotion is determined prior to the customer scanning the card at the computer terminal and playing the games. Winning customers can either receive the prize in cash, or use the winnings to make an additional consumer product purchase, such as additional Internet time or phone card minutes, and thereby receive more entries into the game promotion. In any event, in electronic game promotion operations, the time spent playing the games is not deducted from the phone card or Internet time.

Legality Concerns

Law enforcement and local district attorneys have raised concerns about whether the use of an electronic simulated gaming machine in a game promotion is an illegal slot machine. Other issues have been raised concerning potential ambiguities in the game promotion statute, including whether the game promotion statute exempts nonprofit organizations from the statutory requirements in s. 849.094, F.S., or whether nonprofit organizations are excluded from conducting a game promotion entirely. In addition, the issue of consideration has been raised concerning whether customers of Internet Cafes are purchasing sweepstakes entries.

No appellate court in Florida has examined the legality of the use of electronic simulated gaming devices in conjunction with game promotions. Three cases have been identified at the circuit court level. One jury trial resulted in a not guilty verdict against the owners/operators of an Internet Cafe,[16] and two other cases have been brought but ultimately dismissed before trial.[17]

Chapter 849, F.S., prohibits slot machines[18] and gambling houses.[19] Slot machines are authorized at certain pari-mutuel facilities in Miami-Dade and Broward counties.[20] Slot machines are also permitted on tribal facilities covered by the Seminole Indian Compact.[21]

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[16] *State v. Crisante*, 42-2010-CF-001543-BXXXX-XX (Marion County).

[17] *State v. Reed*, 42-2009-CA-004574-AXXXX-XX (dismissed); 42-2010-CF-001505-AXXXX-XX (nolle prosequi) (Marion County); and *State v. Ames*, 602009CF000951XXAXFX (nolle prosequi) (Sumter County).

[18] Section 849.15, F.S.

[19] Section 849.01, F.S.

[20] Article X, s. 23, Florida Constitution and ch. 551, F.S.

[21] *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 128. Slot machines are authorized for all seven gaming facilities. The Tribe has three gaming facilities located in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa).

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

> (1) Any machine or device is a slot machine or device within the provisions of this chapter if it is one that is adapted for use in such a way that, as a result of the insertion of any piece of money, coin, or other object, such machine or device is caused to operate or may be operated and if the user, by reason of any element of chance or of any other outcome of such operation unpredictable by him or her, may:
>
> (a) Receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade; or
>
> (b) Secure additional chances or rights to use such machine, apparatus, or device, even though it may, in addition to any element of chance or unpredictable outcome of such operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

Section 551.102(8), F.S., defines a slot machine to mean:

> any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both.

Generally, any machine or device is a slot machine if, as a result of the insertion of any object, the user, by any element of chance or unpredictability, may receive any thing of value.[22] According to the Florida Supreme Court, the unpredictability must "be inherent in the machine."[23]

As a whole, the Internet Cafe industry claims that there are many differences between an electronic game promotion and a slot machine. The industry notes that slot machines allow line bets, use random number generators, and the element of chance is built into the machine. Slot machines have no beginning or end and each individual play on the machine is independent of the last. Game promotions on the other hand reveal results from a finite predetermined pool of outcomes. The results shown on the terminal act as a representation of the predetermined outcome and once the outcome is drawn, the ticket cannot be drawn again and the outcome is

[22] Section 849.16, F.S.
[23] *Deeb v. Stoutamire*, 53 So.2d 873, 875 (Fla. 1951).

discarded. Game promotions have a predetermined start and stop date and nothing is stored on the player terminal.

In September 2011, the Florida Attorney General stated that nothing in s. 849.094, F.S., "authorizes the use of slot machines."[24] In addition, the Attorney General outlined the findings in an Alabama gambling case and noted that:

> a Florida court may well utilize a similar analysis in determining whether the machines utilized in Internet cafes offering customers the ability to play slot machine type games constitute slot machines and whether the elements of consideration and chance are present even though the machines may offer customers merchandise or services such as Internet or telephone access when such merchandise or services are merely incidental and chance is determined at the point of sale.[25]

In 2006, the Alabama Supreme Court reviewed a simulated gaming system used as a sweepstakes for a pari-mutuel facility in Birmingham.[26] The sweepstakes operated similarly to Internet Cafes in Florida. The customer opens an account, is assigned a magnetic reader, and the account is assigned a number of predetermined sweepstakes entries from a pool of entries. The customer then uses a computer terminal to reveal whether his entries have won a prize. The court found that the customers were attracted to the establishment for the purpose of gambling and that the customers are more interested in gambling than in using the Internet time.[27] The court found that the system was an illegal slot machine and stated that "the fact that chance takes place at the point of sale rather than at the readers themselves is simply inconsequential."[28]

In addition to the above legality issue, there are concerns about whether or not s. 849.094, F.S., limits the conduct of game promotions to only for-profit corporations, excluding non-profit charitable organizations. Specifically, s. 849.094(1)(b), F.S., provides that an "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.*" (emphasis added). This provision regarding charitable nonprofit organizations was in the definition of "operator" when the game promotion statute was first enacted in 1971.[29] Section 849.094(10), F.S., further provides that the section does not apply to activities of nonprofit organizations or to any organization engaged in any enterprise other than the sale of consumer products or services.

The Florida Attorney General noted that the definition of a game promotion "expressly excludes charitable nonprofit organizations" and the game promotion provisions, as a result, cannot be utilized by those entities.[30] Instead, gambling activities permitted for nonprofit organizations are

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[24] *Briefing Paper submitted to the Senate Regulated Industries Committee from the Office of the Attorney General Pam Bondi* (Sept. 2011). A copy of the paper is on file with the committee.
[25] *Id*.
[26] *See Barber v. Jefferson County Racing Association*, 960 So.2d 599 (Ala. 2006).
[27] *Id*. at 612.
[28] *Id.* at 615.
[29] *See* ch. 71-304, L.O.F.
[30] *Briefing Paper*, *supra* at n. 24.

typically found under s. 849.0935, F.S., pertaining to charitable drawings by chance, and s. 849.0931, F.S., pertaining to charitable bingo.

Because of the exception from the definition of an operator of a game promotion, charitable nonprofit organizations do not register the sweepstakes with the Department of Agriculture and Consumer Services and are not otherwise required to comply with the requirements of s. 849.094, F.S.

Inconsistent State-wide Enforcement

The Senate Committee on Regulated Industries issued Interim Report 2012-137: *Review Internet Cafes Used for Electronic Game Promotions*[31] noted that local governments have been responding to the increase in the number of Internet Cafes in the past few years by passing moratoriums prohibiting the growth of the Internet Cafes, passing bans, or passing regulatory ordinances. According to survey results conducted for that report, only two counties have moved to regulate Internet Cafes: Leon and Duval.

Duval passed the first ordinance regulating Internet Cafes in October 2010. The ordinance limits the number of locations, regulates, and taxes the games.[32] The ordinance allows facilities that were operating as of August 2010, to receive a permit but thereafter caps the number of permits to 20 for the county. The ordinance requires independent laboratory certification that confirms the software used to run the sweepstakes complies with state and local laws. Operators must also submit a $500 application fee and permit fees for the location and per device. Signage requirements limit the advertisement of the facility to the goods or service sold, plus the operator may advertise that a sweepstakes is being offered. The signage may not suggest gambling is occurring inside or display images associated with slot machine graphics. In addition, the operator must maintain a bond in the amount of the total announced value of all prizes or $50,000, whichever is less. Armed security guards are also required during nighttime operating hours.

In an ordinance similar to the Duval ordinance, Leon County earlier this year also passed a regulatory ordinance. Starting in September 2011, an applicant for a "Simulated gambling facility" must submit fingerprint cards, a criminal background check certification letter, rules and regulations for the game promotion, certification by an independent testing laboratory, and proof of a trust account or copy of a bond for an amount equal to the total value of announced prizes or $50,000, whichever is less. The applicant must also submit information about all owners and affiliates of the applicant and a list of all products and services sold, including the sales price for each item, which must be reasonable market value. The application must be accompanied by a $500 application fee and an annual permit fee that is determined per device used in the establishment. The permit fee ranges from $2,500 (1-20 devices) to $12,500 (81-100 devices). In addition, each applicant must submit an additional $50 per device for the annual simulated gambling device inspection fee.

[31] The report can be found at: http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-137ri.pdf

[32] Duval County Ordinance 2010-326 was codified as ch. 156, and can be found at: http://www.coj.net/Departments/Environmental-and-Compliance/Docs/Chapter-156-Electronic-Game-Promotions.aspx (Last visited January 17, 2012).

In contrast to the regulatory ordinances, Seminole County passed an ordinance to ban all simulated gambling devices in January 2011,[33] which is currently being challenged in federal court as an unconstitutional limitation on free speech.[34] The ordinance defines a "simulated gambling device" as "any device that, upon connection with an object, is available to play or operate a computer simulation of any game, and which may deliver or entitle the person or persons playing or operating the device to a payoff." The case is currently on appeal to the United States Court of Appeals, 11th Circuit. The City of Winter Garden[35] and Baker County[36] have also passed ordinances to prohibit the use of simulated gaming displays used commonly in Internet Cafes. Hillsborough County has also recently passed an ordinance to ban Internet Cafes.

Several other counties have addressed the issue in various ways.[37]

Along with Sheriffs, State Attorneys, and Chiefs of Police, it has been reported that the Commissioner of the Department of Agriculture and Consumer Services recommends clarification on the issue because it is leading to uneven enforcement across the state.[38]

Internet Cafes are spreading in other states as well. A few states have started to address the issue and have passed legislation in an attempt to ban the activity. In North Carolina, the legislature moved to ban the activity by banning server-based game promotions in 2010.[39] In Virginia, the legislature amended the definition of "illegal gambling" and specified that it included the purchase of a product, Internet access, or other thing of value if the purchaser is credited with free points that may be redeemed for money and the purchase of the product, Internet access, or other thing of value would be insufficient value in and of itself to justify the purchase or is merely incidental to the chance to win money.[40] In Massachusetts, Attorney General Coakley issued a permanent regulation to ban Internet Cafes in June 2011. In a press release for Attorney General Coakley, the report noted that "[t]he regulation makes it clear that companies cannot skirt our laws by disguising gambling as something else, such as the sale of internet access. . . Though the businesses purport to sell goods or services, such as internet access or phone cards, the Attorney General's investigation found those sales were a pretext for unlawful lotteries, online slot parlors, sweepstakes and similar gambling. The regulation makes clear that these

[33] Seminole County Ordinance 2011-1, available at: http://www.seminolecountyfl.gov/ca/pdf/Ordinance_2011-1.pdf (Last visited January 17, 2012).
[34] *Allied Veterans of the World v. Seminole County*, case 6:11-cv-155-Orl-28DAB (M.D. Fla. 2011). In February 2011, a temporary restraining order was issued to enjoin Seminole County from enforcing the ordinance, available at: http://www.leoncountyfl.gov/ADMIN/Agenda/attach/110222/A2102.pdf (Last visited September 9, 2011). In May 2011, the court denied Plaintiff's motion for a preliminary injunction and ordered that the temporary restraining order was no longer in effect and that Seminole County was entitled to enforce the ordinance. In September 2011, the court denied Plaintiff's motion to stay trial court proceedings pending its appeal to the U.S. Court of Appeals for the 11th Circuit.
[35] A copy of the ordinance can be viewed at: http://www.cwgdn.com/files/city-clerk/ordinances/Ord%2011-03%20Prohibiting%20Commercial%20Gaming%20Devices.pdf (Last visited September 15, 2011).
[36] A copy of the ordinance can be viewed at: http://www.ordinancewatch.com/files/LocalGovernment/LocalGovernment54345.pdf (Last visited September 9, 2011).
[37] See various articles at: http://www.floridagamingwatch.com/internet-cafe-news-and-information2/ (Last visited January 17, 2012).
[38] http://saintpetersblog.com/2011/05/adam-putnam-internet-cafe-laws-need-clarity/ (Last visited September 14, 2011).
[39] N.C. Gen. Stat. s. 14-306.3.
[40] VA Code s. 18.2-352.

practices are against the law."[41] Other states have also taken various actions at the state or local level.[42]

III. Effect of Proposed Changes:

This bill increases the regulations that apply to electronic game promotions.

The bill provides a definition for "department" to mean the Department of Agriculture and Consumer Services.

The bill deletes the references to charitable nonprofit organizations, which excepted the organizations from the definition of "operator" of a game promotion. Under this bill, charitable nonprofit organizations may operate a game promotion.

The bill requires every operator that provides electronic devices or computer terminals with video display monitors that reveal or display the results of a game promotion with a total prize value over $1 to file a copy of the rules and regulations of the game promotion at least seven days before the commencement of the game promotion. The operator must also file a list of all prizes and prize categories offered. The filing must include the physical location of each electronic device or computer terminal and a separate terminal fee for each electronic device or computer terminal that is a component of the game promotion. The annual fee is $100 per electronic device or computer terminal.

The bill provides that DACS may not accept a filing from any operator of a game promotion who has been found guilty of or entered a plea of nolo contendere to, regardless of adjudication, or who fails to satisfy a judgment, for a violation of this section.

Each operator of a game promotion that provides electronic devices or computer terminals with video display monitors that reveal or display the results of a game promotion with a total prize value over $1 must obtain a surety bond in an amount equal to the total value of all prizes offered and file with the department and shall file the bond with the department at least seven days before the commencement of the game promotion. All bonds filed with the department must include the account number and amount of the bond. Bonds shall be in favor of the department for the use and benefit of any consumer who qualifies for the award of a prize under the rules and regulations of the game promotion, but who does not receive the prize awarded. The bond shall be applicable and liable only for the payment of claims adjudicated by the department.

The bill provides that a list of winners of prizes awarded over $25 must be submitted to the department within 60 days after the winners are determined. The bill provides that the final determination of winners must be 60 days after the ending of the game promotion as stated in the original filing with the department.

In addition, each operator of an electronic game promotion that provides electronic devices or computer terminals with video display monitors that reveal or display the results of a game

[41] http://www.mass.gov/ago/news-and-updates/press-releases/2011/ag-issues-permanent-regs-banning-internet-cafes.html (Last visited January 15, 2012).
[42] *Supra* at n. 37.

promotion, regardless of prize amount, must submit an independent certification that the game promotion software operates only games with a preconfigured finite pool of entries, provides an entrant with the ability to participate in the absence of a purchase, does not distinguish an entrant who has made a purchase from one who has not, and uses video displays that do not determine the result of the game promotion.

This bill provides that counties or municipalities may adopt ordinances, codes, plans, rules, resolutions, or other measures to limit or regulate electronic game promotions, including, but not limited to, permitting, fees, fines, location, signage, security, or other enforcement provisions.

The bill prohibits the use of mechanical or electromechanical reels in connection with a game promotion.

The bill takes effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill provides that municipalities and counties may further restrict electronic game promotions through ordinances but does not require any county to do so.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill requires each operator that provides electronic devices or computer terminals with video display monitors that reveal or display the results of a game promotion to pay an annual $100 per device or terminal filing fee to the Department of Agriculture and Consumer Services.

B. Private Sector Impact:

In 2011, Florida State University's Center for Economic Forecasting and Analysis studied the impact that Internet Cafes have on the state. The study analyzed the data supplied by Internet Cafes in Florida[43] and summarized the characteristics of the average Internet Cafe. The study found that each Internet Cafe employs approximately 13 individuals, which accounts for over 4,000 to 13,000 jobs statewide. Each Internet Cafe generates between $62,000 and $400,000 in sales per month. Overall, these businesses

[43] The Florida State University did not conduct independent research but relied on self reporting from in-state Internet Cafes.

generate between over $250 million and $750 million annually in income. A second set of survey results presented slightly lower results; overall, according to the report, both sets of data suggest that Internet Cafes produce jobs, generate a high level of income, and have a positive fiscal impact on the state.[44]

Regulating electronic game promotions or Internet Cafes would provide legal clarity to these businesses that are currently operating throughout the state. The regulations and requirements may restrict the number of operators that could operate an Internet Cafe or run an electronic game promotion.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services indicated that the bill should result in additional game promotions registering with the department; as a result of the increase, the program that oversees this activity within the department would not have sufficient revenue to cover expenditures required to operate the program. The program would have a negative impact of approximately $201,873 during the first year and a negative impact of approximately $143,753 in subsequent years. The department indicated that it would require the following full time employees: 1 Regulatory Consultant, 1 Regulatory Specialist III, and 2 Senior Clerks.

VI. Technical Deficiencies:

The bill requires electronic game promotions over $1 to register, file rules, and bond the game promotion. However, the bill requires all electronic game promotions to provide an independent certification that the software complies with specific requirements and is silent on the $1 prize amount standard.

VII. Related Issues:

The bill does not authorize the use of simulated gaming; instead, the bill restricts and adds regulation to operators that utilize electronic devices or computer terminals with video display monitors to reveal the results a game promotion. While the revelation may involve a game or simulation of a game, the bill is silent on that issue.

In 2010, the state entered into a tribal-state compact (compact) with the Seminole Indian Tribe of Florida (Tribe), granting the Tribe substantial exclusivity on Class III and casino-style gaming in exchange for revenue sharing with the state. [45] The compact specified that if an expansion of gaming occurs, Tribal payments may be reduced or may cease. Although certain expansion would trigger the cessation or reduction in payments, the compact excludes certain gaming that would have no impact on revenue sharing payments. In Part XII.B.9. of the compact, the conduct of games authorized under ch. 849, F.S., as of February 1, 2010, is an exception that would have no impact on revenue sharing payments. Because game promotions were already legal and

[44] *The Economic Impact of Internet Cafes in Florida*, Final Report, Center for Economic Forecasting and Analysis, The Florida State University (May 2011). A copy of the report is on file with the committee.
[45] *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida,* approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 128.

authorized under ch. 849, F.S., as of February 1, 2010, and because electronic game promotions were already operating in the state as of February 1, 2010, the addition of further regulation on electronic game promotions should have no impact on tribal payments to the state. Although law enforcement in some parts of the state have viewed the conduct of electronic game promotions operating as Internet Cafes to be illegal, prosecutions have not been successful and the Internet Cafes have continued to operate statewide. It is unclear how the Tribe would interpret the amendments to s. 849.094, F.S.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2012	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 37 - 273
4 and insert:
5 Section 1. Section 849.094, Florida Statutes, is amended to
6 read:
7 849.094 Game promotion in connection with sale of consumer
8 products or services.—
9 (1) As used in this section, the term:
10 (a) "Department" means the Department of Agriculture and
11 Consumer Services.
12 (b) ~~(a)~~ "Game promotion" means, but is not limited to, a

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13 contest, game of chance, or gift enterprise, conducted within or
14 throughout the state and other states in connection with the
15 sale of consumer products or services, and in which the elements
16 of chance and prize are present. However, the term does ~~"game~~
17 ~~promotion" shall~~ not ~~be construed to~~ apply to bingo games
18 conducted pursuant to s. 849.0931.
19 (c) ~~(b)~~ "Operator" means any person, firm, corporation, or
20 association or agent or employee thereof who ~~promotes,~~ operates~~,~~
21 or conducts a game promotion to promote the sale of its consumer
22 products or services~~, except any charitable nonprofit~~
23 ~~organization~~.
24 (2) It is unlawful for any operator:
25 (a) To design, engage in, promote, or conduct such a game
26 promotion, in connection with the promotion or sale of consumer
27 products or services, wherein the winner may be predetermined or
28 the game may be manipulated or rigged so as to:
29 1. Allocate a winning game or any portion thereof to
30 certain lessees, agents, or franchises; or
31 2. Allocate a winning game or part thereof to a particular
32 period of the game promotion or to a particular geographic area;
33 (b) Arbitrarily to remove, disqualify, disallow, or reject
34 any entry;
35 (c) To fail to award any prizes offered;
36 (d) To print, publish, or circulate literature or
37 advertising material used in connection with such game
38 promotions which is false, deceptive, or misleading; or
39 (e) To require an entry fee, payment, or proof of purchase
40 as a condition of entering a game promotion.
41 (3)(a) The operator of a game promotion in which the total

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42 announced value of the prizes offered is greater than $5,000
43 shall file with the department ~~of Agriculture and Consumer~~
44 ~~Services~~ a copy of the rules ~~and regulations~~ of the game
45 promotion and a list of all prizes and prize categories offered
46 at least 7 days before the commencement of the game promotion.
47 (b) Each operator of a game promotion who provides
48 electronic devices or computer terminals with video display
49 monitors that reveal or display the results of a game promotion
50 must file with the department at least 7 days before
51 commencement of the game promotion a copy of the rules and
52 regulations of the game promotion and a list of all prizes and
53 prize categories offered. The filing must include the physical
54 location of each electronic device or computer terminal and a
55 separate terminal fee pursuant to paragraph (11)(d) for each
56 electronic device or computer terminal that is a component of
57 the game promotion.
58 (c) Once filed, the ~~Such~~ rules and regulations may not
59 ~~thereafter~~ be changed, modified, or altered. The operator of a
60 game promotion shall conspicuously post the rules and
61 regulations of such game promotion in each ~~and every~~ retail
62 outlet or place where such game promotion is ~~may be~~ played or
63 participated in by the public and shall also publish the rules
64 and regulations in all advertising copy used in connection with
65 the game promotion ~~therewith~~. However, the ~~such~~ advertising copy
66 need ~~only~~ include only the material terms of the rules and
67 regulations if the advertising copy includes a website address,
68 a toll-free telephone number, or a mailing address where the
69 full rules and regulations may be viewed, heard, or obtained for
70 the full duration of the game promotion. The ~~Such~~ disclosures

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71 must be legible. Radio and television announcements may indicate
72 that the rules and regulations are available at retail outlets
73 or from the operator of the promotion.
74 (d) A nonrefundable filing fee of $100 must ~~shall~~ accompany
75 each filing and must ~~shall~~ be used to pay the costs incurred in
76 administering and enforcing the provisions of this section.
77 (e) The department may not accept a filing from any
78 operator, person, firm, corporation, association, agent, or
79 employee who has been found guilty of or entered a plea of nolo
80 contendere to, regardless of adjudication, or who fails to
81 satisfy a judgment for, a violation of this section.
82 (4)(a) Each ~~Every~~ operator of ~~such~~ a game promotion in
83 which the total announced value of the prizes offered is greater
84 than $5,000 shall establish a trust account, in a national or
85 state-chartered financial institution, with a balance equal to
86 ~~sufficient to pay or purchase~~ the total value of all prizes
87 offered. On a form supplied by the department ~~of Agriculture and~~
88 ~~Consumer Services~~, an official of the financial institution
89 holding the trust account shall provide ~~set forth~~ the account
90 number and dollar amount of the trust account, the identity of
91 the entity or individual establishing the trust account, and the
92 name of the game promotion for which the trust account has been
93 established. The ~~Such~~ form must ~~shall~~ be filed with the
94 department ~~of Agriculture and Consumer Services~~ at least 7 days
95 before ~~in advance of~~ the commencement of the game promotion. In
96 lieu of establishing a ~~such~~ trust account, the operator may
97 obtain a surety bond from a surety authorized to do business in
98 this state in an amount equal ~~equivalent~~ to the total value of
99 all prizes offered in the promotion. The~~; and such~~ bond must

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100 ~~shall~~ be filed with the department ~~of Agriculture and Consumer~~
101 ~~Services~~ at least 7 days before ~~in advance of~~ the commencement
102 of the game promotion. Each operator of a game promotion who
103 provides electronic devices or computer terminals with video
104 display monitors that reveal or display the results of a game
105 promotion must obtain a surety bond in an amount equal to the
106 total value of all prizes offered, and the bond must be filed
107 with the department at least 7 days before the commencement of
108 the game promotion.
109 1. The moneys held in the trust account may be withdrawn in
110 order to pay the prizes offered only upon certification to the
111 department ~~of Agriculture and Consumer Services~~ of the name of
112 the winner ~~or winners~~ and the amount and value of the prize ~~or~~
113 ~~prizes and the value thereof~~.
114 2. If the operator of a game promotion obtains ~~has obtained~~
115 a surety bond in lieu of establishing a trust account, the
116 amount of the surety bond shall equal at all times the total
117 amount of the prizes offered. The bond must be in favor of the
118 department for the use and benefit of any consumer who qualifies
119 for the award of a prize under the rules and regulations of the
120 game promotion but who does not receive the prize awarded, and
121 must be in effect until 30 days after filing the list of winners
122 pursuant to subsection (5). The bond must be applicable and
123 liable only for the payment of the claims duly adjudicated by
124 order of the department. The proceedings to adjudicate the claim
125 must be conducted in accordance with ss. 120.569 and 120.57.
126 (b) The department ~~of Agriculture and Consumer Services~~ may
127 waive the provisions of this subsection for any operator who has
128 conducted game promotions in the state for ~~not less than~~ 5 or

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129 more consecutive years and who has not had any civil, criminal,
130 or administrative action instituted against him or her by the
131 state or an agency of the state for violation of this section
132 within that 5-year period. The department may revoke a waiver if
133 it finds that an operator committed a violation of this section.
134 ~~Such waiver may be revoked upon the commission of a violation of~~
135 ~~this section by such operator, as determined by the Department~~
136 ~~of Agriculture and Consumer Services.~~
137 (5) Each ~~Every~~ operator of a game promotion in which the
138 total announced value of the prizes offered is greater than
139 $5,000 shall provide the department ~~of Agriculture and Consumer~~
140 ~~Services~~ with a certified list of the names and addresses of all
141 persons, whether from this state or from another state, who have
142 won prizes that ~~which~~ have a value of more than $25, the value
143 of the ~~such~~ prizes, and the dates when the prizes were won
144 within 60 days after the ~~such~~ winners are ~~have been finally~~
145 determined. The date for the final determination of winners must
146 be 60 days after the ending date of the game promotion stated in
147 the original filing required in subsection (3). The operator
148 shall provide a copy of the list of winners, without charge, to
149 any person who requests it or shall~~. In lieu of the foregoing,~~
150 ~~the operator of a game promotion may, at his or her option,~~
151 publish the same information about the winners in a ~~Florida~~
152 newspaper of general circulation in this state within 60 days
153 after the ~~such~~ winners are ~~have been~~ determined. If the operator
154 publishes the list of winners in a newspaper, the operator must
155 ~~and shall~~ provide to the department ~~of Agriculture and Consumer~~
156 ~~Services~~ a certified copy of the publication containing the
157 information about the winners. The operator of a game promotion

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158 is not required to notify a winner by mail or by telephone when
159 the winner is already in possession of a game card from which
160 the winner can determine that he or she has won a designated
161 prize. All winning entries must ~~shall~~ be held by the operator
162 for ~~a period of~~ 90 days after the close or completion of the
163 game.
164 (6) The department ~~of Agriculture and Consumer Services~~
165 shall keep the certified list of winners for a period of ~~at~~
166 ~~least~~ 6 months after receipt of the certified list. The
167 department thereafter may dispose of all records and lists.
168 (7) An ~~No~~ operator may not ~~shall~~ force, directly or
169 indirectly, a lessee, agent, or franchise dealer to purchase or
170 participate in any game promotion. For the purpose of this
171 section, coercion or force is ~~shall be~~ presumed in these
172 circumstances in which a course of business extending over a
173 period of 1 year or longer is materially changed coincident with
174 a failure or refusal of a lessee, agent, or franchise dealer to
175 participate in such game promotions. Such force or coercion is
176 ~~shall further be~~ presumed when an operator advertises generally
177 that game promotions are available at its lessee dealers or
178 agent dealers.
179 (8)(a) The department may adopt ~~Department of Agriculture~~
180 ~~and Consumer Services shall have the power to promulgate such~~
181 rules regulating ~~and regulations respecting~~ the operation of
182 game promotions which are necessary to administer this section
183 ~~as it may deem advisable~~.
184 (b) If ~~Whenever~~ the department ~~of Agriculture and Consumer~~
185 ~~Services~~ or the Department of Legal Affairs has reason to
186 believe that a game promotion is being operated in violation of

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187 this section, it may bring an action in the circuit court of any
188 judicial circuit in which the game promotion is being operated
189 in the name and on behalf of the people of the state against any
190 operator thereof to enjoin the continued operation of such game
191 promotion anywhere within the state.
192 (9)(a) Any person, firm, or corporation, or association or
193 agent or employee thereof~~,~~ who engages in any acts or practices
194 stated in this section to be unlawful, or who violates any of
195 the rules adopted ~~and regulations made~~ pursuant to this section,
196 commits ~~is guilty of~~ a misdemeanor of the second degree,
197 punishable as provided in s. 775.082 or s. 775.083.
198 (b) Any person, firm, corporation, association, agent, or
199 employee who violates any provision of this section or any of
200 the rules adopted ~~and regulations made~~ pursuant to this section
201 is ~~shall be~~ liable for a civil penalty of not more than $1,000
202 for each such violation, which shall accrue to the state and may
203 be recovered in a civil action brought by the department ~~of~~
204 ~~Agriculture and Consumer Services~~ or the Department of Legal
205 Affairs.
206 (10) ~~This section does not apply to actions or transactions~~
207 ~~regulated by the Department of Business and Professional~~
208 ~~Regulation or to the activities of nonprofit organizations or to~~
209 ~~any other organization engaged in any enterprise other than the~~
210 ~~sale of consumer products or services.~~ Subsections (3), (4),
211 (5), (6), and (7) and paragraph (8)(a) and ~~any of~~ the rules
212 adopted ~~made~~ pursuant to these subsections ~~thereto~~ do not apply
213 to television or radio broadcasting companies licensed by the
214 Federal Communications Commission.
215 (11) Each operator of a game promotion who provides

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216 electronic devices or computer terminals with video display
217 monitors that reveal or display the results of a game promotion
218 shall:
219 (a) File with the department, at least 7 days before the
220 commencement of the game promotion, a certification from an
221 independent testing laboratory that the electronic game
222 promotion software:
223 1. Operates only games having a preconfigured finite pool
224 or pools of entries;
225 2. Provides an entrant with the ability to participate in
226 the absence of a purchase;
227 3. Does not distinguish an entrant who has made a purchase
228 from one who has not, with respect to all advertised prizes;
229 4. Uses video displays that do not determine the result;
230 and
231 5. Complies with the requirements of subsection (2).
232 (b) Post a sign inside the premise which must include the
233 following language in at least 26-point type: "The video
234 displays are for amusement and entertainment only. The video
235 displays do not determine the result of your game promotion
236 entries."
237 (c) Affix signage that must include the following language
238 in at least 10-point type on each piece of electronic equipment:
239 "The video displays are for amusement and entertainment only.
240 The video displays do not determine the result of your game
241 promotion entries."
242 (d) Pay to the department annually a nonrefundable terminal
243 fee of $100 per electronic device or computer terminal which
244 must be remitted by the department to the Department of Revenue

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245 for deposit into the General Revenue Fund.
246 (12) Operators that provide electronic devices or computer
247 terminals with video display monitors that reveal or display the
248 results of a game promotion or electronic game promotion shall
249 limit the advertisement on the exterior of the premise to the
250 consumer product or service sold on the premise, and that game
251 promotions are offered in connection with the sale of the
252 consumer product or service. A sign may not be posted on the
253 exterior of the premises which suggests gambling takes place on
254 the premise or which displays any image commonly associated with
255 slot machines.
256 (13) Electronic devices or computer terminals with video
257 display monitors that reveal or display the results of a game
258 promotion may not dispense coins or currency.
259 (14) This section does not allow the use of mechanical or
260 electromechanical reels in connection with a game promotion.
261 (15) Electronic devices or computer terminals with video
262 display monitors that reveal or display the results of a game
263 promotion which are in compliance with this section may not be
264 construed as slot machines or devices as defined in s.
265 551.102(8), s. 849.15, or s. 849.16.
266 (16) A county or municipality may adopt an ordinance, code,
267 plan, rule, resolution, or other measure that further regulates
268 an existing or future operator who provides electronic devices
269 or computer terminals with video display monitors that reveal or
270 display the results of a game promotion or electronic game
271 promotion. A county or municipality may prohibit a future
272 operator from providing electronic devices or computer terminals
273 with video display monitors that reveal or display the results

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274 of a game promotion or electronic game promotion.
275
276 ========== T I T L E A M E N D M E N T ==========
277 And the title is amended as follows:
278 Delete lines 4 - 32
279 and insert:
280 providing for the registration of electronic devices
281 and computer terminals used to conduct electronic game
282 promotions; prohibiting the Department of Agriculture
283 and Consumer Services from accepting a filing from
284 certain entities; establishing requirements for
285 electronic game promotions; requiring certification of
286 game promotion software; requiring that an operator of
287 an electronic game production pay to the department an
288 annual nonrefundable terminal fee per electronic
289 device or computer terminal; requiring the department
290 to remit the fees to the Department of Revenue for
291 deposit into the General Revenue Fund; prohibiting
292 certain conduct; limiting the applicability of the
293 act; authorizing a county or municipality to adopt an
294 ordinance, code, plan, rule, resolution, or other
295 measure to regulate an operator that provides
296 electronic devices or computer terminals for
297 electronic game promotion or to prohibit a future
298 operator; providing

By Senator Diaz de la Portilla

36-00282A-12 2012380__

A bill to be entitled

An act relating to game promotion; amending s. 849.094, F.S.; adding and revising definitions; requiring a game promotion operator who provides electronic devices that reveal or display the results of a game promotion that offers certain prize amounts to file certain information with the Department of Agriculture and Consumer Services; prohibiting the department from accepting filings from certain persons against whom there is a criminal or civil adjudication or unsatisfied civil judgment for certain violations; requiring financial institution officials to provide the department with the account number of trust accounts of game promotion operators who offer prizes greater than a certain amount; requiring certain game promotion operators who offer total prize amounts of more than $1 to obtain a surety bond and file it before a time certain with the department; providing criteria for the surety bonds; providing a date certain for the final determination of winners; removing an exemption provided for certain not-for-profit and other organizations from application of the act; allowing counties and municipalities to regulate game promotions consistent with the act; requiring a game promotion operator to provide certain certifications regarding game promotion software and remit to the department annual fees for each electronic device or computer terminal; requiring the department to remit the fees to the Department of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30 Revenue for deposit into the General Revenue Fund;
31 prohibiting the use of mechanical or electromechanical
32 reels in connection with a game promotion; providing
33 an effective date.
34
35 Be It Enacted by the Legislature of the State of Florida:
36
37 Section 1. Section 849.094, Florida Statutes, is amended to
38 read:
39 849.094 Game promotion in connection with sale of consumer
40 products or services.—
41 (1) As used in this section, the term:
42 (a) "Department" means the Department of Agriculture and
43 Consumer Services.
44 (b) ~~(a)~~ "Game promotion" means, but is not limited to, a
45 contest, game of chance, or gift enterprise, conducted within or
46 throughout the state and other states in connection with the
47 sale of consumer products or services, and in which the elements
48 of chance and prize are present. However, the term does ~~"game~~
49 ~~promotion" shall~~ not ~~be construed to~~ apply to bingo games
50 conducted pursuant to s. 849.0931.
51 (c) ~~(b)~~ "Operator" means any person, firm, corporation, or
52 association or agent or employee thereof who promotes, operates,
53 or conducts a game promotion~~, except any charitable nonprofit~~
54 ~~organization~~.
55 (2) It is unlawful for any operator:
56 (a) To design, engage in, promote, or conduct such a game
57 promotion, in connection with the promotion or sale of consumer
58 products or services, wherein the winner may be predetermined or

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59 the game may be manipulated or rigged so as to:
60 1. Allocate a winning game or any portion thereof to
61 certain lessees, agents, or franchises; or
62 2. Allocate a winning game or part thereof to a particular
63 period of the game promotion or to a particular geographic area;
64 (b) Arbitrarily to remove, disqualify, disallow, or reject
65 any entry;
66 (c) To fail to award any prizes offered;
67 (d) To print, publish, or circulate literature or
68 advertising material used in connection with such game
69 promotions which is false, deceptive, or misleading; or
70 (e) To require an entry fee, payment, or proof of purchase
71 as a condition of entering a game promotion.
72 (3)(a) The operator of a game promotion in which the total
73 announced value of the prizes offered is greater than $5,000
74 shall file with the department ~~of Agriculture and Consumer~~
75 ~~Services~~ a copy of the rules and regulations of the game
76 promotion and a list of all prizes and prize categories offered
77 at least 7 days before the commencement of the game promotion.
78 (b) Each operator of a game promotion who provides
79 electronic devices or computer terminals with video display
80 monitors that reveal or display the results of a game promotion
81 offering total prize amounts of more than $1 shall file with the
82 department at least 7 days before commencement of the game
83 promotion a copy of the rules and regulations of the game
84 promotion and a list of all prizes and prize categories offered.
85 The filing shall include the physical location of each
86 electronic device or computer terminal and a separate terminal
87 fee pursuant to paragraph (12)(b) for each electronic device or

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88 computer terminal that is a component of the game promotion.
89 (c) Once filed, the ~~Such~~ rules and regulations may not
90 ~~thereafter~~ be changed, modified, or altered. The operator of a
91 game promotion shall conspicuously post the rules and
92 regulations of such game promotion in each ~~and every~~ retail
93 outlet or place where such game promotion is ~~may be~~ played or
94 participated in by the public and shall also publish the rules
95 and regulations in all advertising copy used in connection with
96 the game promotion ~~therewith~~. However, the ~~such~~ advertising copy
97 need ~~only~~ include only the material terms of the rules and
98 regulations if the advertising copy includes a website address,
99 a toll-free telephone number, or a mailing address where the
100 full rules and regulations may be viewed, heard, or obtained for
101 the full duration of the game promotion. The ~~Such~~ disclosures
102 must be legible. Radio and television announcements may indicate
103 that the rules and regulations are available at retail outlets
104 or from the operator of the promotion.
105 (d) A nonrefundable filing fee of $100 shall accompany each
106 filing and shall be used to pay the costs incurred in
107 administering and enforcing the provisions of this section.
108 (e) The department may not accept a filing from any
109 operator, person, firm, corporation, association, agent, or
110 employee who has been found guilty of or entered a plea of nolo
111 contendere to, regardless of adjudication, or who fails to
112 satisfy a judgment, for a violation of this section.
113 (4)(a) Each ~~Every~~ operator of ~~such~~ a game promotion in
114 which the total announced value of the prizes offered is greater
115 than $5,000 shall establish a trust account, in a national or
116 state-chartered financial institution, with a balance equal to

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117 ~~sufficient to pay or purchase~~ the total value of all prizes
118 offered. On a form supplied by the department ~~of Agriculture and~~
119 ~~Consumer Services~~, an official of the financial institution
120 holding the trust account shall provide ~~set forth~~ the account
121 number and dollar amount of the trust account, the identity of
122 the entity or individual establishing the trust account, and the
123 name of the game promotion for which the trust account has been
124 established. The ~~Such~~ form shall be filed with the department ~~of~~
125 ~~Agriculture and Consumer Services~~ at least 7 days before ~~in~~
126 ~~advance of~~ the commencement of the game promotion. In lieu of
127 establishing a ~~such~~ trust account, the operator may obtain a
128 surety bond from a surety authorized to do business in this
129 state in an amount equal ~~equivalent~~ to the total value of all
130 prizes offered in the promotion. The~~; and such~~ bond shall be
131 filed with the department ~~of Agriculture and Consumer Services~~
132 at least 7 days before ~~in advance of~~ the commencement of the
133 game promotion. Each operator of a game promotion who provides
134 electronic devices or computer terminals with video display
135 monitors that reveal or display the results of a game promotion
136 offering total prize amounts of more than $1 shall obtain a
137 surety bond in an amount equal to the total value of all prizes
138 offered, and the bond shall be filed with the department at
139 least 7 days before the commencement of the game promotion.
140 1. The moneys held in the trust account may be withdrawn in
141 order to pay the prizes offered only upon certification to the
142 department ~~of Agriculture and Consumer Services~~ of the name of
143 the winner ~~or winners~~ and the amount and value of the prize ~~or~~
144 ~~prizes and the value thereof~~.
145 2. If the operator of a game promotion obtains ~~has obtained~~

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146 a surety bond in lieu of establishing a trust account, the
147 amount of the surety bond shall equal at all times the total
148 amount of the prizes offered. The bond shall be in favor of the
149 department for the use and benefit of any consumer who qualifies
150 for the award of a prize under the rules and regulations of the
151 game promotion but who does not receive the prize awarded, and
152 shall be in effect until 30 days after filing the list of
153 winners pursuant to subsection (5). The bond shall be applicable
154 and liable only for the payment of the claims duly adjudicated
155 by order of the department. The proceedings to adjudicate the
156 claim shall be conducted in accordance with ss. 120.569 and
157 120.57.
158 (b) The department ~~of Agriculture and Consumer Services~~ may
159 waive the provisions of this subsection for any operator who has
160 conducted game promotions in the state for ~~not less than~~ 5 or
161 more consecutive years and who has not had any civil, criminal,
162 or administrative action instituted against him or her by the
163 state or an agency of the state for violation of this section
164 within that 5-year period. The department may revoke a waiver if
165 it finds that an operator committed a violation of this section.
166 ~~Such waiver may be revoked upon the commission of a violation of~~
167 ~~this section by such operator, as determined by the Department~~
168 ~~of Agriculture and Consumer Services.~~
169 (5) Each ~~Every~~ operator of a game promotion in which the
170 total announced value of the prizes offered is greater than
171 $5,000 shall provide the department ~~of Agriculture and Consumer~~
172 ~~Services~~ with a certified list of the names and addresses of all
173 persons, whether from this state or from another state, who have
174 won prizes that ~~which~~ have a value of more than $25, the value

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175 of the ~~such~~ prizes, and the dates when the prizes were won
176 within 60 days after the ~~such~~ winners are ~~have been finally~~
177 determined. The date for the final determination of winners
178 shall be 60 days after the ending date of the game promotion
179 stated in the original filing required in subsection (3). The
180 operator shall provide a copy of the list of winners, without
181 charge, to any person who requests it or shall~~. In lieu of the~~
182 ~~foregoing, the operator of a game promotion may, at his or her~~
183 ~~option,~~ publish the same information about the winners in a
184 ~~Florida~~ newspaper of general circulation in this state within 60
185 days after the ~~such~~ winners are ~~have been~~ determined. If the
186 operator publishes the list of winners in a newspaper, the
187 operator ~~and~~ shall provide to the department ~~of Agriculture and~~
188 ~~Consumer Services~~ a certified copy of the publication containing
189 the information about the winners. The operator of a game
190 promotion is not required to notify a winner by mail or by
191 telephone when the winner is already in possession of a game
192 card from which the winner can determine that he or she has won
193 a designated prize. All winning entries shall be held by the
194 operator for ~~a period of~~ 90 days after the close or completion
195 of the game.
196 (6) The department ~~of Agriculture and Consumer Services~~
197 shall keep the certified list of winners for a period of ~~at~~
198 ~~least~~ 6 months after receipt of the certified list. The
199 department thereafter may dispose of all records and lists.
200 (7) An ~~No~~ operator may not ~~shall~~ force, directly or
201 indirectly, a lessee, agent, or franchise dealer to purchase or
202 participate in any game promotion. For the purpose of this
203 section, coercion or force is ~~shall be~~ presumed in these

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

204 circumstances in which a course of business extending over a
205 period of 1 year or longer is materially changed coincident with
206 a failure or refusal of a lessee, agent, or franchise dealer to
207 participate in such game promotions. Such force or coercion is
208 ~~shall further be~~ presumed when an operator advertises generally
209 that game promotions are available at its lessee dealers or
210 agent dealers.
211 (8)(a) The department may adopt ~~of Agriculture and Consumer~~
212 ~~Services shall have the power to promulgate such~~ rules
213 regulating ~~and regulations respecting~~ the operation of game
214 promotions which are necessary to administer this section ~~as it~~
215 ~~may deem advisable~~.
216 (b) If ~~Whenever~~ the department ~~of Agriculture and Consumer~~
217 ~~Services~~ or the Department of Legal Affairs has reason to
218 believe that a game promotion is being operated in violation of
219 this section, it may bring an action in the circuit court of any
220 judicial circuit in which the game promotion is being operated
221 in the name and on behalf of the people of the state against any
222 operator thereof to enjoin the continued operation of such game
223 promotion anywhere within the state.
224 (9)(a) Any person, firm, or corporation, or association or
225 agent or employee thereof~~,~~ who engages in any acts or practices
226 stated in this section to be unlawful, or who violates any of
227 the rules adopted ~~and regulations made~~ pursuant to this section,
228 commits ~~is guilty of~~ a misdemeanor of the second degree,
229 punishable as provided in s. 775.082 or s. 775.083.
230 (b) Any person, firm, corporation, association, agent, or
231 employee who violates any provision of this section or any of
232 the rules adopted ~~and regulations made~~ pursuant to this section

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

233 is ~~shall be~~ liable for a civil penalty of not more than $1,000
234 for each such violation, which shall accrue to the state and may
235 be recovered in a civil action brought by the department ~~of~~
236 ~~Agriculture and Consumer Services~~ or the Department of Legal
237 Affairs.
238 (10) This section does not apply to actions or transactions
239 regulated by the Department of Business and Professional
240 Regulation ~~or to the activities of nonprofit organizations or to~~
241 ~~any other organization engaged in any enterprise other than the~~
242 ~~sale of consumer products or services~~. Subsections (3), (4),
243 (5), (6), and (7) and paragraph (8)(a) and ~~any of the~~ rules
244 adopted ~~made~~ pursuant thereto do not apply to television or
245 radio broadcasting companies licensed by the Federal
246 Communications Commission.
247 (11) Subject to the provisions of this part and chapter
248 166, a county or municipality may adopt an ordinance, code,
249 plan, rule, resolution, or other measure that limits or
250 regulates electronic game promotions, including, but not limited
251 to, permitting, fees, fines, location, signage, security, or
252 other enforcement provisions.
253 (12) Each operator of a game promotion who provides
254 electronic devices or computer terminals with video display
255 monitors that reveal or display the results of a game promotion
256 shall:
257 (a) File with the department, at least 7 days before the
258 commencement of the game promotion, a certification from an
259 independent testing laboratory that the electronic game
260 promotion software:
261 1. Operates only games with a preconfigured finite pool of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

262 entries;
263 2. Provides an entrant with the ability to participate in
264 the absence of a purchase;
265 3. Does not distinguish an entrant who has made a purchase
266 from one who has not, with respect to all advertised prizes; and
267 4. Uses video displays that do not determine the result.
268 (b) Pay to the department annually a nonrefundable terminal
269 fee of $100 per electronic device or computer terminal which
270 shall be remitted by the department to the Department of Revenue
271 for deposit into the General Revenue Fund.
272 (13) This section does not allow the use of mechanical or
273 electromechanical reels in connection with a game promotion.
274 Section 2. This act shall take effect July 1, 2012.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 380
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Thursday, January 19, 2012
TIME: 8:15 —10:00 a.m.
PLACE: 110 Senate Office Building

FINAL VOTE			1/19/2012 8:15AM 1 Amendment 686452 Diaz de la Portilla		1/19/2012 8:15AM 2 Motion to report as Committee Substitute Sachs			
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Altman						
		Bogdanoff						
X		Braynon						
X		Dean						
X		Diaz de la Portilla						
X		Rich						
X		Siplin						
	X	Thrasher						
X		Sachs, VICE CHAIR						
X		Jones, CHAIR						
8	1	**TOTALS**	RCS	-	FAV	-		
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order

REPORTING INSTRUCTION: Publish
01192012.1217

S0380
GENERAL BILL by Diaz de la Portilla; (CO-INTRODUCERS) Smith; (Identical H 0467, Compare S 0468, CS/S 0710)
Game Promotion. EFFECTIVE DATE: 07/01/2012.
01/10/12 S Introduced -SJ 36
01/13/12 S On Committee agenda-- Regulated Industries, 01/19/12, 8:15 am, 110 Senate Office Building
01/19/12 S CS by Regulated Industries; YEAS 8 NAYS 1

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules - Subcommittee on Ethics and Elections, *Chair*
Budget - Subcommittee on General Government Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Communications, Energy, and Public Utilities
Health Regulation
Reapportionment
Regulated Industries

SENATOR MIGUEL DIAZ de la PORTILLA
36th District

October 19, 2011

The Honorable Dennis Jones, D. C.
Chairman, Regulated Industries
408 Senate Office Building

Via Delivery

Re: Senate Bill 380

Dear Chairman Jones:

Senate Bill 380 has been referred to the Committee on Regulated Industries. I respectfully request that you place this bill on the agenda at the next available meeting.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
Senator, District 36

Cc: Mr. Booter Imhof, Staff Director
Ms. Lynn Koon, Administrative Assistant

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5109

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic: Veterans Gaming

Bill Number: 380 *(if applicable)*

Name: MARK A. ALVAREZ ALVAREZ

Amendment Barcode: *(if applicable)*

Job Title: Commander

Address: 1149 Corby Ct. E.
Street

Tal FL 32317
City *State* *Zip*

Phone: 850 402 4133

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: Veterans of Foreign Wars

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 19 2012
Meeting Date

Topic: Game Promotion

Bill Number: 380 *(if applicable)*

Name: Joseph Corchiarella

Amendment Barcode: _____ *(if applicable)*

Job Title: Assistant State Attorney - prosecutor

Address: 415 N. Orange Avenue
Street

Orlando, Florida 32801
City *State* *Zip*

Phone: 407-836-9701

E-mail: _____

Speaking: ☐ For ☒ Against ☒ Information

Representing: _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-11
Meeting Date

Topic: Game Promotion

Bill Number: SB 380 *(if applicable)*

Name: April Kirsheman

Amendment Barcode: *(if applicable)*

Job Title: General Counsel - Seminole County Sheriff's Office

Address: 100 Bush Blvd
Street

Sanford FL 32773
City *State* *Zip*

Phone: 407 665-6672

E-mail: akirsheman@seminolesheriff.org

Speaking: ☐ For ☒ Against ☐ Information

Representing: FSA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

JAN 19, 2012
Date

380
Bill Number

Name BILL BUNKLEY

Phone 813 264-2977

Address PO BOX 34028P
Street

E-mail

TAMPA FL 33694
City State Zip

Job Title PRESIDENT

Speaking: ☐ For ☑ Against ☐ Information

Appearing at request of Chair ☐

Subject GAME PROMOTION

Representing FLORIDA ETHICS & RELIGIOUS LIBERTY COMMISSION

Lobbyist registered with Legislature: ☑ Yes ☐ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from ____ ___.m. to ____ ___.m.

S-001 (08/2005)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/2012
Meeting Date

Topic: ELECTRONIC GAME PROMOTIONS

Bill Number: SB 380 *(if applicable)*

Name: LAURIE LEE

Amendment Barcode: *(if applicable)*

Job Title: ATTORNEY

Address: 1200 RIVERPLACE BLVD #902
Street

JACKSONVILLE, FL 32207
City *State* *Zip*

Phone: 904-396-5500

E-mail: llee@mathislaw.net

Speaking: [x] For [ ] Against [ ] Information

Representing: INTERNATIONAL INTERNET TECHNOLOGIES

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

2

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01-19-12
Meeting Date

Topic: Internet cafe's

Bill Number: SB-380 *(if applicable)*

Name: Harry T. Chaires

Amendment Barcode: *(if applicable)*

Job Title: Owner Armed Security

Address: 4813 Chaires Crossroad
Street

Tallahassee, FL 32317
City *State* *Zip*

Phone: 850-510-0445

E-mail:

Speaking: [X] For [X] Against [ ] Information

Representing: Self

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

3

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic _____

Bill Number 380 *(if applicable)*

Name Melissa Barfield

Amendment Barcode _____ *(if applicable)*

Job Title Ex Director Childrens Cancer Coop.

Address 1341 College Park Rd
Street

Summerville SC 29483
City *State* *Zip*

Phone 843-830-9542

E-mail mbarfield@childrenscc.com

Speaking: [X] For [ ] Against [ ] Information

Representing Childrens Cancer Cooperative INC.

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic _____

Bill Number 380 *(if applicable)*

Name Bill Warren

Amendment Barcode _____ *(if applicable)*

Job Title Policy Director

Address _____
Street

_____
City *State* *Zip*

Phone 850 - 567-8143

E-mail _____

Speaking: ☐ For ☑ Against ☐ Information

Representing Fl. Family Action

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12
Meeting Date

Topic _____

Bill Number 380 (if applicable)

Name Kent Perez

Amendment Barcode _____ (if applicable)

Job Title General Counsel

Address PL-01
Street

Tallahassee, FL
City State Zip

Phone (850) 245-0155

E-mail kent.perez@myflorida.com

Speaking: ☐ For ☑ Against ☐ Information

Representing 380

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

5

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic: Internet Cafe

Bill Number: SB - 380 (if applicable)

Name: Barbara Harrison

Amendment Barcode: (if applicable)

Job Title: Cashier

Address: 3030 S. Monroe
Street

TALLAHASSEE FL 32305
City State Zip

Phone:

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: Allied Veterans

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12
Meeting Date

Topic: REGULATION OF INTERNET CAFES

Bill Number: 380 (if applicable)

Name: JULIE SLATTERY

Amendment Barcode: (if applicable)

Job Title: OWNER

Address: 4446 PRESERVE DR
Street

MELBOURNE FL 32934
City State Zip

Phone:

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: [redacted] MYSELF

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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 428

INTRODUCER: Senators Oelrich and Gaetz

SUBJECT: Prohibition of Simulated Gambling Devices

DATE: January 17, 2012 REVISED:

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

I. Summary:

This bill prohibits the use of simulated gambling devices and creates the "Simulated Gambling Prohibition and Community Protection Act." The bill defines the term "simulated gambling device" to mean a mechanically or electronically operated machine, network, system, or device that is intended to be used by an entrant to a game promotion, sweepstakes, drawing, raffle, or any game of chance and that is capable of displaying a simulated gambling display on a screen or other mechanism. Violations of the act constitute a felony of the third degree. However, the act does not prohibit activity that is lawfully conducted under Tribal-State Gaming Compacts or activity that is lawfully conducted pursuant to s. 849.161, F.S., the section that regulates arcade amusement machines.

The bill provides that operators of charitable drawings by chance and game promotions may not use simulated gambling devices to operate the drawing or game promotion.

The bill prohibits a charitable nonprofit organization from conducting a game promotion. The bill provides that any violation of the game promotion regulations constitutes a deceptive and unfair trade practice. The bill provides that nothing in this section shall prohibit a corporation or its wholly owned subsidiaries, or a franchisee association or cooperative thereof, that is registered under the federal Securities Exchange Act of 1934 and has total assets of not less than $25 million from conducting a game promotion which can be played on an electronic communication device, including, but not limited to, a computer or a cellular telephone.

The bill amends s. 849.15, F.S., pertaining to the manufacture, sale, and possession of coin-operated devices, to include that it is unlawful to manufacture, sell, or possess any apparatus or part thereof that is otherwise prohibited from operation or possession in this state. The bill

amends s. 849.16, F.S., pertaining to the prohibition of slot machines to provide that a slot machine may be a system or network of computers or other devices, and not solely a single machine or device. The slot machine may operate by insertion of money, coin, code, account number, credit, or other object or method of activation, which may occur through remote activation.

The bill provides that nothing in this act may be construed to authorize the possession or operation of any machine or device that is prohibited under another other provision of law.

The act shall take effect upon becoming law.

This bill substantially amends the following sections of the Florida Statutes: 849.0935, 849.094, 849.15, and 849.16.

The bill makes conforming changes to and reenacts the following sections of the Florida Statutes: 895.02, 721.111, 16.56, 338.234, 655.50, 849.19, 896.101, and 905.34.

This bill creates section 849.162, Florida Statutes.

II. Present Situation:

Charitable Drawings by Chance

Although gambling is generally illegal,[1] charitable drawings by chance are authorized under s. 849.0935, F.S. Section 849.0935(1)(a), F.S., defines a "drawing by chance" as:

> an enterprise in which, from the entries submitted by the public to the organization conducting the drawing, one or more entries are selected by chance to win a prize. The term "drawing" does not include those enterprises, commonly known as "matching," "instant winner," or "preselected sweepstakes," which involve the distribution of winning numbers, previously designated as such, to the public.

Organizations which may conduct game drawings by chance include organizations which are exempt from federal income taxation pursuant to 26 U.S.C. s. 501(c)(3), (4), (7), (8), (10), or (19), and which have a current determination letter from the Internal Revenue Service, and its bona fide members or officers.[2]

Section 849.0935(3), F.S., requires all brochures, advertisements, notices, tickets, or entry blanks used in connection with a drawing by chance to conspicuously disclose:

- The rules governing the conduct and operation of the drawing;
- The full name of the organization and its principal place of business;
- The source of the funds used to award cash prizes or to purchase prizes;

[1] Section 849.08, F.S., provides that"[w]hoever plays or engages in any game at cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083."
[2] Section 849.0935(1)(b), F.S.

- The date, hour, and place where the winner will be chosen and the prizes will be awarded, unless the brochures, advertisements, notices, tickets, or entry blanks are not offered to the public more than 3 days prior to the drawing; and
- That no purchase or contribution is necessary.

Section 849.0935(4), F.S., prohibits any organization which promotes, operates, or conducts a drawing by chance:

- To design, engage in, promote, or conduct any drawing in which the winner is predetermined by means of matching, instant win, or preselected sweepstakes or otherwise or in which the selection of the winners is in any way rigged;
- To require an entry fee, donation, substantial consideration, payment, proof of purchase, or contribution as a condition of entering the drawing or of being selected to win a prize. However, this provision shall not prohibit an organization from suggesting a minimum donation or from including a statement of such suggested minimum donation on any printed material utilized in connection with the fundraising event or drawing;
- To condition the drawing on a minimum number of tickets having been disbursed to contributors or on a minimum amount of contributions having been received;
- To arbitrarily remove, disqualify, disallow, or reject any entry or to discriminate in any manner between entrants who gave contributions to the organization and those who did not give such contributions;
- To fail to promptly notify, at the address set forth on the entry blank, any person, whose entry is selected to win, of the fact that he or she won;
- To fail to award all prizes offered;
- To print, publish, or circulate literature or advertising material used in connection with the drawing which is false, deceptive, or misleading;
- To cancel a drawing; or
- To condition the acquisition or giveaway of any prize upon the receipt of voluntary donations or contributions.

The section does permit an organization conducting a drawing by chance to limit the number of tickets distributed to each drawing entrant.[3] In addition, any violation of this section is a deceptive and unfair trade practice.[4] Any organization which violates s. 849.0935, F.S., is guilty of a misdemeanor of the second degree.[5] Any organization or person who violates the provision related to posting the date, hour, and location where the winner will be chosen is guilty of a misdemeanor of the second degree, but the violation is only punishable by fine.

[3] Section 849.0935(5), F.S.
[4] Section 849.0935(6), F.S.
[5] A misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days or by a fine not to exceed $500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

Game Promotions

Game promotions are regulated under s. 849.094, F.S.[6] In 1971, the Legislature enacted s. 849.094, F.S., which provides for game promotions in connection with the sale of consumer products.[7] 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. However, "game promotion" shall not be construed to apply to bingo games conducted pursuant to s. 849.0931.

This provision is intended to allow companies to promote their products or services with a promotion. Prior to the passage of this statute, game promotions were considered illegal lotteries.

A game promoter, or "operator," is defined as "any person, firm, corporation, or association or agent or employee thereof who promotes, operates, or conducts a game promotion, except any charitable nonprofit organization."[8]

The law prohibits operators from manipulating their game promotion 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:[9]

- 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.

There is no license required to conduct a game promotion and game promotion proceeds are not taxed. Instead, operators of a game promotion with an announced total prize value of greater than $5,000 must register the game promotion with the Department of Agriculture and Consumer Services (DACS or department) [10] and comply with the following requirements:

- File with DACS at least 7 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 must accompany each filing.[11]
- 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.[12]

---

[6] Section 849.094, F.S., does not explicitly authorize game promotions but instead defines the term "game promotion" and provides requirements for the conduct of certain game promotions. *See Beasley Broadcasting, Inc. v. Department of State, Division of Licensing*, 693 So.2d 668 (Fla. 2d DCA 1997).
[7] *See* ss. 1-9, ch. 71-304, L.O.F.
[8] Section 849.094(1)(b), F.S.
[9] Sections 849.094(2) and (7), F.S.
[10] Section 849.094(3), F.S.
[11] *Id.*
[12] Section 849.094(3), F.S.

- 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.[13]
- Financially back the prize pool with either a trust account or a surety bond.[14]
    - The trust account must be obtained through 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 7 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 5 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 6 months before disposing of it.[15]

The department has the authority to adopt rules to enforce the game promotion statute. Also, the department 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.[16] The department may also pursue civil penalties against violators of up to $1,000 per violation, such as failure to post the game promotion rules or failing to maintain a surety bond in the amount of the total prize pot.

Section 849.094(10), F.S., provides that "this section does not apply" to activities or transactions regulated by the Department of Business and Professional Regulation, the activities of nonprofit organizations, or to any organization engaged in activities that do not involve the sale of consumer products or services. Also, DACS' registration and oversight provisions do not apply to television or radio broadcasting companies licensed by the Federal Communications Commission.

[13] *Id.*
[14] Section 849.094(4), F.S.
[15] Section 849.094(5), F.S.
[16] Section 849.094(9), F.S.

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. There is nothing in the statute that expressly authorizes or prohibits the use of electronic devices to aid in game promotions. Because electronic game promotions may look or function similar to slot machines, there is some uncertainty as to their legality.

Electronic Game Promotions or Internet Cafes

Internet Cafes or operators of electronic game promotions operate a game promotion through the use of an electronic computer terminal or other electronic device. There is no official estimate for how many Internet Cafes exist in the state but representatives of the industry estimate that there are somewhere between 450 to 1,000 Internet Cafes in Florida. According to a representative from DACS, there are eleven electronic sweepstakes currently registered as of January 2012.[17]

Electronic game promotions work similarly to other game promotions operated across the country. The customer, in most cases, purchases Internet time or long-distance calling cards (the consumer goods or service), and receives free entries into a game promotion. Customers of the Internet Cafe are not required to purchase anything in order to receive entries in the game promotion.[18]

A central computer server at the Internet Cafe randomly picks entries for the customer from the predetermined, finite pool of entries at the time when the customer purchases the consumer product. The calling minutes or Internet time along with the game promotion entries are typically associated with the customer's account at the time of purchase to allow the customer to access those entries and Internet time with an electronic card that can be swiped at any of the computers in the Internet Cafe.[19]

The customer can use the computer terminals to reveal the entries in an "entertaining fashion" or the customer can access the Internet. If the customer does not wish to reveal the entries in an entertaining fashion, the customer can ask the Internet Cafe attendant to swipe the card and tell the customer whether he or she has any winning entries.

Typically, the Internet Cafe customers swipe the electronic card through a card reader on the computers and select the type of game they want to play; the games are often referred to as "simulated games" because the games have no impact on the outcome of the game promotion or sweepstakes. The simulated games often resemble "casino-style games" such as poker, blackjack, slots, roulette, or even arcade style games such as matching or Tetris-type games. The games are interactive but the interaction has no effect on whether the player wins or loses. Even games that appear skill based are not; the entries received by the patron are already predetermined as winners or losers. Whether the customer is a winner in the game promotion is

[17] Six of the registered game promotions sell phone time and five sell Internet time. The representative from DACS stressed that although only 11 are registered, each game promotion operates at multiple locations. In addition, only game promotions with prize pools over $5,000 are registered.

[18] Section 849.094(2)(e), F.S., provides that it is unlawful for a game promotion operator to charge for entries into the sweepstakes.

[19] The game promotion entries are not loaded on to a play card but are associated with the account for the customer so that the customer or the cashier can immediately determine if the entries are winners.

determined prior to the customer scanning the card at the computer terminal and playing the games. Winning customers can either receive the prize in cash, or use the winnings to make an additional consumer product purchase, such as additional Internet time or phone card minutes, and thereby receive more entries into the game promotion. In any event, in electronic game promotion operations, the time spent playing the games is not deducted from the phone card or Internet time.

Legality Concerns

Law enforcement and local district attorneys have raised concerns about whether the use of an electronic simulated gaming machine in a game promotion is an illegal slot machine. Other issues have been raised concerning potential ambiguities in the game promotion statute, including whether the game promotion statute exempts nonprofit organizations from the statutory requirements in s. 849.094, F.S., or whether nonprofit organizations are excluded from conducting a game promotion entirely. In addition, the issue of consideration has been raised concerning whether customers of Internet Cafes are purchasing sweepstakes entries.

No appellate court in Florida has examined the legality of the use of electronic simulated gaming devices in conjunction with game promotions. Three cases have been identified at the circuit court level. One jury trial resulted in a not guilty verdict against the owners/operators of an Internet Cafe,[20] and two other cases have been brought but ultimately dismissed before trial.[21]

Chapter 849, F.S., prohibits slot machines[22] and gambling houses.[23] Slot machines are authorized at certain pari-mutuel facilities in Miami-Dade and Broward counties.[24] Slot machines are also permitted on tribal facilities covered by the Seminole Indian Compact.[25]

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

> (1) Any machine or device is a slot machine or device within the provisions of this chapter if it is one that is adapted for use in such a way that, as a result of the insertion of any piece of money, coin, or other object, such machine or device is caused to operate or may be operated and if the user, by reason of any element of chance or of any other outcome of such operation unpredictable by him or her, may:
>
> > (a) Receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade; or

[20] *State v. Crisante*, 42-2010-CF-001543-BXXXX-XX (Marion County).
[21] *State v. Reed*, 42-2009-CA-004574-AXXXX-XX (dismissed); 42-2010-CF-001505-AXXXX-XX (nolle prosequi) (Marion County); and *State v. Ames*, 602009CF000951XXAXFX (nolle prosequi) (Sumter County).
[22] Section 849.15, F.S.
[23] Section 849.01, F.S.
[24] Article X, s. 23, Florida Constitution and ch. 551, F.S.
[25] *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 128. Slot machines are authorized for all seven gaming facilities. The Tribe has three gaming facilities located in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa).

> (b) Secure additional chances or rights to use such machine, apparatus, or device, even though it may, in addition to any element of chance or unpredictable outcome of such operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

Section 551.102(8), F.S., defines a slot machine to mean:

> any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both.

Generally, any machine or device is a slot machine if, as a result of the insertion of any object, the user, by any element of chance or unpredictability, may receive any thing of value.[26] According to the Florida Supreme Court, the unpredictability must "be inherent in the machine."[27]

As a whole, the Internet Cafe industry claims that there are many differences between an electronic game promotion and a slot machine. The industry notes that slot machines allow line bets, use random number generators, and the element of chance is built into the machine. Slot machines have no beginning or end and each individual play on the machine is independent of the last. Game promotions on the other hand reveal results from a finite predetermined pool of outcomes. The results shown on the terminal act as a representation of the predetermined outcome and once the outcome is drawn, the ticket cannot be drawn again and the outcome is discarded. Game promotions have a predetermined start and stop date and nothing is stored on the player terminal.

In September 2011, the Florida Attorney General stated that nothing in s. 849.094, F.S., "authorizes the use of slot machines."[28] In addition, the Attorney General outlined the findings in an Alabama gambling case and noted that:

> a Florida court may well utilize a similar analysis in determining whether the machines utilized in Internet cafes offering customers the ability to play slot machine type games constitute slot machines and whether the elements of consideration and chance are present even though the machines may offer customers merchandise or services such as

[26] Section 849.16, F.S.
[27] *Deeb v. Stoutamire*, 53 So.2d 873, 875 (Fla. 1951).
[28] *Briefing Paper submitted to the Senate Regulated Industries Committee from the Office of the Attorney General Pam Bondi* (Sept. 2011). A copy of the paper is on file with the committee.

> Internet or telephone access when such merchandise or services are merely incidental and chance is determined at the point of sale.[29]

In 2006, the Alabama Supreme Court reviewed a simulated gaming system used as a sweepstakes for a pari-mutuel facility in Birmingham.[30] The sweepstakes operated similarly to Internet Cafes in Florida. The customer opens an account, is assigned a magnetic reader, and the account is assigned a number of predetermined sweepstakes entries from a pool of entries. The customer then uses a computer terminal to reveal whether his entries have won a prize. The court found that the customers were attracted to the establishment for the purpose of gambling and that the customers are more interested in gambling than in using the Internet time.[31] The court found that the system was an illegal slot machine and stated that "the fact that chance takes place at the point of sale rather than at the readers themselves is simply inconsequential."[32]

In addition to the above legality issue, there are concerns about whether or not s. 849.094, F.S., limits the conduct of game promotions to only for-profit corporations, excluding non-profit charitable organizations. Specifically, s. 849.094(1)(b), F.S., provides that an "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.*" (emphasis added). This provision regarding charitable nonprofit organizations was in the definition of "operator" when the game promotion statute was first enacted in 1971.[33] Section 849.094(10), F.S., further provides that the section does not apply to activities of nonprofit organizations or to any organization engaged in any enterprise other than the sale of consumer products or services.

The Florida Attorney General noted that the definition of a game promotion "expressly excludes charitable nonprofit organizations" and the game promotion provisions, as a result, cannot be utilized by those entities.[34] Instead, gambling activities permitted for nonprofit organizations are typically found under s. 849.0935, F.S., pertaining to charitable drawings by chance, and s. 849.0931, F.S., pertaining to charitable bingo.

Because of the exception from the definition of an operator of a game promotion, charitable nonprofit organizations do not register the sweepstakes with the Department of Agriculture and Consumer Services and are not otherwise required to comply with the requirements of s. 849.094, F.S. However, according to representatives from the Internet Cafe industry, some Internet Cafes are operated by charitable nonprofit organizations under s. 849.0935, F.S.

Inconsistent State-wide Enforcement

The Senate Committee on Regulated Industries issued Interim Report 2012-137: *Review Internet Cafes Used for Electronic Game Promotions*[35] noted that local governments have been responding to the increase in the number of Internet Cafes in the past few years by passing

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[29] *Id*.
[30] *See Barber v. Jefferson County Racing Association*, 960 So.2d 599 (Ala. 2006).
[31] *Id*. at 612.
[32] *Id.* at 615.
[33] *See* ch. 71-304, L.O.F.
[34] *Briefing Paper*, *supra* at n. 24.
[35] The report can be found at: http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-137ri.pdf

moratoriums prohibiting the growth of the Internet Cafes, passing bans, or passing regulatory ordinances. According to survey results conducted for that report, only two counties have moved to regulate Internet Cafes: Leon and Duval.

Duval passed the first ordinance regulating Internet Cafes in October 2010. The ordinance limits the number of locations, regulates, and taxes the games.[36] The ordinance allows facilities that were operating as of August 2010, to receive a permit but thereafter caps the number of permits to 20 for the county. The ordinance requires independent laboratory certification that confirms the software used to run the sweepstakes complies with state and local laws. Operators must also submit a $500 application fee and permit fees for the location and per device. Signage requirements limit the advertisement of the facility to the goods or service sold, plus the operator may advertise that a sweepstakes is being offered. The signage may not suggest gambling is occurring inside or display images associated with slot machine graphics. In addition, the operator must maintain a bond in the amount of the total announced value of all prizes or $50,000, whichever is less. Armed security guards are also required during nighttime operating hours.

In an ordinance similar to the Duval ordinance, Leon County earlier this year also passed a regulatory ordinance. Starting in September 2011, an applicant for a "Simulated gambling facility" must submit fingerprint cards, a criminal background check certification letter, rules and regulations for the game promotion, certification by an independent testing laboratory, and proof of a trust account or copy of a bond for an amount equal to the total value of announced prizes or $50,000, whichever is less. The applicant must also submit information about all owners and affiliates of the applicant and a list of all products and services sold, including the sales price for each item, which must be reasonable market value. The application must be accompanied by a $500 application fee and an annual permit fee that is determined per device used in the establishment. The permit fee ranges from $2,500 (1-20 devices) to $12,500 (81-100 devices). In addition, each applicant must submit an additional $50 per device for the annual simulated gambling device inspection fee.

In contrast to the regulatory ordinances, Seminole County passed an ordinance to ban all simulated gambling devices in January 2011,[37] which is currently being challenged in federal court as an unconstitutional limitation on free speech.[38] The ordinance defines a "simulated gambling device" as "any device that, upon connection with an object, is available to play or operate a computer simulation of any game, and which may deliver or entitle the person or persons playing or operating the device to a payoff." The case is currently on appeal to the

[36] Duval County Ordinance 2010-326 was codified as ch. 156, and can be found at: http://www.coj.net/Departments/Environmental-and-Compliance/Docs/Chapter-156-Electronic-Game-Promotions.aspx (Last visited January 17, 2012).

[37] Seminole County Ordinance 2011-1, available at: http://www.seminolecountyfl.gov/ca/pdf/Ordinance_2011-1.pdf (Last visited January 17, 2012).

[38] *Allied Veterans of the World v. Seminole County*, case 6:11-cv-155-Orl-28DAB (M.D. Fla. 2011). In February 2011, a temporary restraining order was issued to enjoin Seminole County from enforcing the ordinance, available at: http://www.leoncountyfl.gov/ADMIN/Agenda/attach/110222/A2102.pdf (Last visited September 9, 2011). In May 2011, the court denied Plaintiff's motion for a preliminary injunction and ordered that the temporary restraining order was no longer in effect and that Seminole County was entitled to enforce the ordinance. In September 2011, the court denied Plaintiff's motion to stay trial court proceedings pending its appeal to the U.S. Court of Appeals for the 11th Circuit.

United States Court of Appeals, 11th Circuit. The City of Winter Garden[39] and Baker County[40] have also passed ordinances to prohibit the use of simulated gaming displays used commonly in Internet Cafes. Hillsborough County has also recently passed an ordinance to ban Internet Cafes.

Several other counties have addressed the issue in various ways.[41]

Along with Sheriffs, State Attorneys, and Chiefs of Police, it has been reported that the Commissioner of the Department of Agriculture and Consumer Services recommends clarification on the issue because it is leading to uneven enforcement across the state.[42]

Internet Cafes are spreading in other states as well. A few states have started to address the issue and have passed legislation in an attempt to ban the activity. In North Carolina, the legislature moved to ban the activity by banning server-based game promotions in 2010.[43] In Virginia, the legislature amended the definition of "illegal gambling" and specified that it included the purchase of a product, Internet access, or other thing of value if the purchaser is credited with free points that may be redeemed for money and the purchase of the product, Internet access, or other thing of value would be insufficient value in and of itself to justify the purchase or is merely incidental to the chance to win money.[44] In Massachusetts, Attorney General Coakley issued a permanent regulation to ban Internet Cafes in June 2011. In a press release for Attorney General Coakley, the report noted that "[t]he regulation makes it clear that companies cannot skirt our laws by disguising gambling as something else, such as the sale of internet access. . . Though the businesses purport to sell goods or services, such as internet access or phone cards, the Attorney General's investigation found those sales were a pretext for unlawful lotteries, online slot parlors, sweepstakes and similar gambling. The regulation makes clear that these practices are against the law."[45] Other states have also taken various actions at the state or local level.[46]

III. Effect of Proposed Changes:

Section 1. This bill prohibits the use of simulated gambling devices and creates the "Simulated Gambling Prohibition and Community Protection Act." The bill finds that there is a compelling state interest in prohibiting the use of electronic machines and devices used for simulated gambling or gaming. The section defines terms, including the following:

- "Simulated gambling device" means a mechanically or electronically operated machine, network, system, or device that is intended to be used by an entrant to a

[39] A copy of the ordinance can be viewed at: http://www.cwgdn.com/files/city-clerk/ordinances/Ord%2011-03%20Prohibiting%20Commercial%20Gaming%20Devices.pdf (Last visited September 15, 2011).
[40] A copy of the ordinance can be viewed at: http://www.ordinancewatch.com/files/LocalGovernment/LocalGovernment54345.pdf (Last visited September 9, 2011).
[41] See various articles at: http://www.floridagamingwatch.com/internet-cafe-news-and-information2/ (Last visited January 17, 2012).
[42] http://saintpetersblog.com/2011/05/adam-putnam-internet-cafe-laws-need-clarity/ (Last visited September 14, 2011).
[43] N.C. Gen. Stat. s. 14-306.3.
[44] VA Code s. 18.2-352.
[45] http://www.mass.gov/ago/news-and-updates/press-releases/2011/ag-issues-permanent-regs-banning-internet-cafes.html (Last visited January 15, 2012).
[46] *Supra* at n. 41.

game promotion, sweepstakes, drawing, raffle, or any game of chance and that is capable of displaying a simulated gambling display on a screen or other mechanism.

- "Simulated gambling display" means visual or aural information capable of being perceived by a user which takes the form of actual or simulated gambling or gaming play. The term includes, but is not limited to, displays depicting the following types of games:
    - Reel games or simulations of reel games, such as slot machines, eight liners, or pot-of-gold.
    - Card games or simulations of card games, such as video poker.
    - Video games representing a game regulated by Florida law, such as bingo, sweepstakes, game promotions, drawings, or raffles.
    - Video games representing a game prohibited by Florida law, such as craps, keno, and lotteries.
    - Any video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols.

The bill provides that the terms "gambling," "gaming," or "game" is not used to incorporate any legal definitions of the term and does not necessitate the presence of elements of consideration, chance, or prize.

The bill provides that a person may not design, promote, or operate a simulated gambling device to:

- Conduct a game promotion, sweepstakes, drawing, raffle, or any game of chance, including the entry process or the revealing of a prize or outcome; or
- Promote a game promotion, sweepstakes, drawing, raffle, or any game of chance that is conducted through the use of a simulated gambling display, including the entry process or the revealing of a prize or outcome.

Violations of the act constitute a felony of the third degree.[47] A finding that a machine or device is a simulated gambling device under this section does not preclude a finding that it is also a slot machine or device prohibited under s. 849.16, F.S. It provides that it is the intent of this section to prohibit any mechanism that seeks to avoid the application of this section through the use of subterfuge or pretense. The act does not prohibit activity that is lawfully conducted under Tribal-State Gaming Compacts or activity that is lawfully conducted pursuant to s. 849.161, F.S., the section that regulates arcade amusement machines.

Section 2. The bill amends s. 849.0935, F.S., pertaining to charitable drawings by chance to exclude game promotions from the definition of "drawing by chance" and to include the term "raffle" to mean a drawing by chance. The bill prohibits an organization from conducting a drawing which uses a simulated gambling device or to design, engage in, promote, or conduct a drawing through the use of a mechanically or electronically operated machine, network, system, or device that allows the entrant to the drawing to operate, play, or otherwise interact with the

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

machine. The bill increases the criminal penalty for any violation pertaining to the use of a simulated gambling device to a misdemeanor of the first degree.[48]

Section 3. The bill amends s. 849.094, F.S., pertaining to game promotions. The bill amends the definition of "game promotion" to include the term "sweepstakes." The bill defines "operator" of a game promotion to include an enterprise or organization. It provides that the lottery prohibition in s. 849.09, F.S., does not prohibit the operation of a game promotion if the operator complies with the provisions of this section. The bill provides that an organization, as defined in s. 849.0935, F.S., may not operate a game promotion. The bill prohibits the use of a simulated gambling device in connection with a game promotion. The bill further prohibits the operator of a game promotion to design, engage in, promote, or conduct a game promotion through the use of any mechanically or electronically operated machine, network, system, or device that is owned, leased, or controlled by the organization and operated, played, or interacted with by an entrant to the game promotion.

The bill prohibits the Department of Agriculture and Consumer Services from authorizing the operation or possession of a slot machine or device or any other device that is otherwise prohibited from operation or possession in the state and may not authorize game promotions to be conducted through the use of any mechanically or electronically operated machine, network, system, or device. Compliance with the rules of the department is not a defense to the charge of possession of a slot machine or violation of any other law. The bill increases the criminal penalty for any violation pertaining to the use of a simulated gambling device to a felony of the third degree.[49]

The bill provides that violations of s. 849.094, F.S., or soliciting another to violate this section, is a deceptive and unfair trade practice. The bill provides that nothing in this section shall prohibit a corporation or its wholly owned subsidiaries, or a franchisee association or cooperative thereof, that is registered under the federal Securities Exchange Act of 1934 and has total assets of not less than $25 million from conducting a game promotion which can be played on an electronic communication device, including, but not limited to, a computer or a cellular telephone.

Section 4. The bill amends s. 849.15, F.S., pertaining to the manufacture, sale, and possession of coin-operated devices, to include that it is unlawful to manufacture, sell, or possess any apparatus or part thereof that is otherwise prohibited from operation or possession in this state.

Section 5. The bill amends s. 849.16, F.S., pertaining to the prohibition of slot machines to provide that a slot machine may be a system or network of computers or other devices, and not solely a single machine or device. The slot machine may operate by insertion of money, coin, code, account number, credit, or other object or method of activation, which may occur through remote activation.

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[48] Misdemeanors of the first degree are punishable by a term of imprisonment not to exceed one year or a fine not to exceed $1,000. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

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

Sections 6-14. The bill makes conforming changes to and reenacts the following sections of the Florida Statutes: 895.02, 721.111, 16.56(1)(a), 338.234(1), 655.50(3)(g), 849.19, 896.101(2)(g), and 905.34(3).

Section 7. The bill provides that nothing in this act may be construed to authorize the possession or operation of any machine or device that is prohibited under another other provision of law.

Section 15. The bill provides that the act becomes effective upon becoming law.

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:

None.

B. Private Sector Impact:

The bill would require businesses that currently operate as Internet Cafes or sweepstakes cafes to substantially amend their business practices or shut down. The businesses would no longer be able to conduct electronic game promotions utilizing electronic devices and computer terminals to reveal the entries.

C. Government Sector Impact:

According to the Florida Department of Law Enforcement, there is no known fiscal impact. If the businesses continue to operate electronic sweepstakes cafes or Internet Cafes after the effective date of this bill, law enforcement may continue to engage in routine criminal investigative activities and the Florida Department of Law Enforcement may assist in those criminal investigations. According to the Department of Agriculture and Consumer Services, the fiscal impact of this bill is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill prohibits the use of simulated gaming devices in connection with a game promotion. In both Leon County and Duval County, the counties have passed ordinances regulating the use of electronic devices in game promotions. This bill would require those businesses to cease their game promotions or substantially amend their business practices.

The bill prohibits using a simulated gambling device for the conduct of a drawing, raffle, or any other game of chance. The bill provides exceptions for the Tribal-State Compact and games under s. 849.161, F.S., but drawings and games conducted by the Department of the Lottery are not excluded. This could have an impact on potential lottery expansion and growth.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Oelrich

14-00515-12 2012428__

1 A bill to be entitled
2 An act relating to the prohibition of simulated
3 gambling devices; creating s. 849.162, F.S.; creating
4 the "Simulated Gambling Prohibition and Community
5 Protection Act"; providing legislative findings and
6 intent; providing definitions; prohibiting the use of
7 simulated gambling devices to conduct or promote game
8 promotions, drawings, and games of chance; providing
9 penalties; providing for construction; amending s.
10 849.0935, F.S., relating to drawings by chance offered
11 by nonprofit organizations; revising definitions;
12 revising conditions for exceptions to prohibitions on
13 lotteries; prohibiting the use of simulated gambling
14 devices or other devices operated by drawing entrants;
15 providing penalties; amending s. 849.094, F.S.;
16 revising definitions; providing conditions for
17 exceptions to prohibitions on lotteries; prohibiting
18 the use of simulated gambling devices or other devices
19 operated by game promotion entrants; limiting the
20 rulemaking authority of the Department of Agriculture
21 and Consumer Services; providing for construction;
22 providing penalties; providing that violations are
23 deceptive and unfair trade practices; amending s.
24 849.15, F.S.; prohibiting production, possession, or
25 distribution of any gambling apparatus; amending s.
26 849.16, F.S.; providing that described machines or
27 devices are subject to gambling provisions; amending
28 s. 895.02, F.S.; revising the definition of the term
29 "racketeering activity" to include violations of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

30 specified provisions; providing for construction;
31 amending s. 721.111, F.S., relating to promotional
32 offers; conforming cross-references; reenacting ss.
33 16.56(1)(a), 338.234(1), 655.50(3)(g), 849.19,
34 896.101(2)(g), and 905.34(3), F.S., relating to the
35 Office of Statewide Prosecution, the Florida Turnpike,
36 money laundering, seizure of property, the Florida
37 Money Laundering Act, and a statewide grand jury,
38 respectively, to incorporate changes made by the act
39 in references thereto; providing an effective date.
40
41 WHEREAS, the State of Florida has specifically prohibited
42 gambling in section 849.08, Florida Statutes, and
43 WHEREAS, section 849.0935, Florida Statutes, is intended to
44 allow, without violation of the lottery law, specified
45 charitable or nonprofit organizations the opportunity to raise
46 funds to carry out their charitable or nonprofit purpose by
47 conducting an occasional drawing or raffle for prizes upon the
48 receipt of voluntary donations or contributions and was not
49 intended to provide a vehicle for the establishment of places of
50 ongoing gambling or gaming, and
51 WHEREAS, section 849.094, Florida Statutes, is intended to
52 allow, without violation of the lottery law, for-profit
53 commercial enterprises to conduct a game promotion or
54 sweepstakes on a limited and occasional basis as a marketing
55 tool and incidental to substantial bona fide sales of consumer
56 products or services provided they comply with specified
57 requirements and rules of the Department of Agriculture and
58 Consumer Services and was not intended to provide a vehicle for

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59 the establishment of places of ongoing gambling or gaming, and
60 WHEREAS, sections 849.0935 and 849.094, Florida Statutes,
61 regulate such activities and require operation in a very
62 specific manner deemed to be beneficial or less harmful to the
63 community and were not intended to allow for large-scale ongoing
64 operations of gaming or gambling, and
65 WHEREAS, due to the instant gratification provided, the use
66 of electronic gambling machines or devices for convenience
67 gambling is associated with higher levels and faster development
68 of compulsive gambling problems and should be tightly regulated
69 if and when permitted, and
70 WHEREAS, the State of Florida has specifically prohibited
71 any slot machine or device in section 849.15, Florida Statutes,
72 and has specifically defined slot machine or device in section
73 849.16, Florida Statutes, and
74 WHEREAS, various companies have developed electronic
75 machines and devices to simulate the experience of gambling
76 while attempting to avoid Florida's prohibition on slot machines
77 and devices through the pretextual conduct of charitable or
78 nonprofit drawings by chance or raffles or game promotions in
79 connection with merely incidental consumer sales or services,
80 such as sale of internet or telephone time, and
81 WHEREAS, operators are offering such simulated gambling at
82 ongoing establishments located in local communities and offering
83 extended hours and days of operation, attracting convenience
84 gamblers and encouraging unplanned repeated convenience
85 gambling, and
86 WHEREAS, such simulated gambling encourages the vice of
87 compulsive gambling, even when purportedly used as a marketing

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88 or fundraising technique, by delivering the same instant
89 gratification as other forms of electronic gambling, limiting
90 the duration of game play to encourage continued play, promoting
91 hopes to win large sums of money through electronic game play,
92 and allowing players to wager more consideration in the hopes of
93 achieving a larger financial award, and
94 WHEREAS, such simulated gambling create the same negative
95 secondary effects in the community as other forms of gambling,
96 even when purportedly used as a marketing or fundraising
97 technique, including claims of compulsive gambling problems by
98 players and excessive financial losses reported by players, NOW,
99 THEREFORE,
100
101 Be It Enacted by the Legislature of the State of Florida:
102
103 Section 1. Section 849.162, Florida Statutes, is created to
104 read:
105 849.162 Simulated gambling devices.—
106 (1) This section may be cited as the "Simulated Gambling
107 Prohibition and Community Protection Act."
108 (2) The Legislature finds that there is a compelling state
109 interest in addressing the deleterious effects of the
110 proliferation of electronic machines and devices used for
111 simulated gambling or gaming. The Legislature declares that it
112 is the intent of this section to prohibit the use of such
113 devices.
114 (3) As used in this section, the term:
115 (a) "Simulated gambling device" means a mechanically or
116 electronically operated machine, network, system, or device that

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117 is intended to be used by an entrant to a game promotion,
118 sweepstakes, drawing, raffle, or any game of chance and that is
119 capable of displaying a simulated gambling display on a screen
120 or other mechanism.
121 (b) "Simulated gambling display" means visual or aural
122 information capable of being perceived by a user which takes the
123 form of actual or simulated gambling or gaming play. The term
124 includes, but is not limited to, displays depicting the
125 following types of games:
126 1. Reel games or simulations of reel games, such as slot
127 machines, eight liners, or pot-of-gold.
128 2. Card games or simulations of card games, such as video
129 poker.
130 3. Video games representing a game regulated by Florida
131 law, such as bingo, sweepstakes, game promotions, drawings, or
132 raffles.
133 4. Video games representing a game prohibited by Florida
134 law, such as craps, keno, and lotteries.
135 5. Any video game based on or involving the random or
136 chance matching of different pictures, words, numbers, or
137 symbols.
138 (c) "Gambling," "gaming," or "game" is not used to
139 incorporate any legal definition of the term and does not
140 necessitate the presence of elements of consideration, chance,
141 or prize.
142 (4) Notwithstanding any other provision of law, a person
143 may not design, promote, or operate a simulated gambling device
144 to:
145 (a) Conduct a game promotion, sweepstakes, drawing, raffle,

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146 or any game of chance, including the entry process or the
147 revealing of a prize or outcome; or
148 (b) Promote a game promotion, sweepstakes, drawing, raffle,
149 or any game of chance that is conducted through the use of a
150 simulated gambling display, including the entry process or the
151 revealing of a prize or outcome.
152 (5) A person who violates this section commits a felony of
153 the third degree, punishable as provided in s. 775.082, s.
154 775.083, or s. 775.084.
155 (6) A finding that a machine or device is a simulated
156 gambling device under this section does not preclude a finding
157 that it is also a slot machine or device under s. 849.16.
158 (7) It is the intent of this section to prohibit any
159 mechanism that seeks to avoid application of this section
160 through the use of any subterfuge or pretense whatsoever.
161 (8) Nothing in this section may be construed to prohibit:
162 (a) Activity that is lawfully conducted on Indian lands
163 pursuant to and in accordance with an approved Tribal-State
164 Gaming Compact.
165 (b) Activity that is lawfully conducted pursuant to s.
166 849.161.
167 Section 2. Paragraph (a) of subsection (1), subsection (2),
168 and subsection (7) of section 849.0935, Florida Statutes, are
169 amended, and paragraphs (j) and (k) are added to subsection (4)
170 of that section, to read:
171 849.0935 Charitable, nonprofit organizations; drawings by
172 chance; required disclosures; unlawful acts and practices;
173 penalties.—
174 (1) As used in this section, the term:

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175 (a) "Drawing by chance," ~~or~~ "drawing," or "raffle" means an
176 enterprise in which, from the entries submitted by the public to
177 the organization conducting the drawing, one or more entries are
178 selected by chance to win a prize. The term "drawing" does not
179 include those enterprises, commonly known as "game promotions,"
180 as defined by s. 849.094, "matching," "instant winner," or
181 "~~preselected~~ sweepstakes," which involve the distribution of
182 winning numbers, previously designated as such, to the public.
183 (2) The provisions of s. 849.09 shall not be construed to
184 prohibit an organization qualified under 26 U.S.C. s. 501(c)(3),
185 (4), (7), (8), (10), or (19) from conducting drawings by chance
186 pursuant to the authority granted by this section, provided the
187 organization has complied with all applicable provisions of
188 chapter 496 and this section.
189 (4) It is unlawful for any organization which, pursuant to
190 the authority granted by this section, promotes, operates, or
191 conducts a drawing by chance:
192 (j) To design, engage in, promote, or conduct any drawing
193 using a simulated gambling device, as defined by s. 849.162.
194 (k) To design, engage in, promote, or conduct any drawing
195 through the use of any mechanically or electronically operated
196 machine, network, system, or device that is:
197 1. Owned, leased, or otherwise controlled by the
198 organization or a partner, affiliate, subsidiary, contractor, or
199 agent of the organization; and
200 2. Operated, played, or otherwise interacted with by an
201 entrant to the drawing.
202 (7)(a) ~~Any organization which engages in any act or~~
203 ~~practice in violation of this section is guilty of a misdemeanor~~

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204 ~~of the second degree, punishable as provided in s. 775.082 or s.~~
205 ~~775.083. However,~~ Any organization or other person who sells or
206 offers for sale in this state a ticket or entry blank for a
207 raffle or other drawing by chance, without complying with the
208 requirements of paragraph (3)(d), commits ~~is guilty of~~ a
209 misdemeanor of the second degree, punishable by fine only as
210 provided in s. 775.083.
211 (b) Any organization or person who violates paragraph
212 (4)(j) or paragraph (4)(k) commits a misdemeanor of the first
213 degree, punishable as provided in s. 775.082 or s. 775.083.
214 (c) Any organization that engages in any other act or
215 practice in violation of this section commits a misdemeanor of
216 the second degree, punishable as provided in s. 775.082 or s.
217 775.083.
218 Section 3. Section 849.094, Florida Statutes, is amended to
219 read:
220 849.094 Game promotion in connection with sale of consumer
221 products or services.—
222 (1) As used in this section, the term:
223 (a) "Game promotion" means, but is not limited to, a
224 contest, game of chance, sweepstakes, or gift enterprise,
225 conducted by an operator within or throughout the state and
226 other states in connection with and incidental to the sale of
227 consumer products or services, and in which the elements of
228 chance and prize are present. However, "game promotion" may
229 ~~shall~~ not be construed to apply to bingo games conducted
230 pursuant to s. 849.0931.
231 (b) "Operator" means any person, firm, corporation,
232 enterprise, organization, or association or agent or employee

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233 thereof who promotes, operates, or conducts a game promotion~~,~~
234 ~~except any charitable nonprofit organization~~.
235 (2) The provisions of s. 849.09 may not be construed to
236 prohibit an operator from conducting a game promotion pursuant
237 to this section, provided the operator has complied with the
238 provisions of this section.
239 (3) An organization, as defined by s. 849.0935, may not
240 operate a game promotion.
241 (4)~~(2)~~ It is unlawful for any operator:
242 (a) To design, engage in, promote, or conduct such a game
243 promotion through a simulated gambling device, as defined in s.
244 849.162.
245 (b) To design, engage in, promote, or conduct such a game
246 promotion through the use of any mechanically or electronically
247 operated machine, network, system, or device that is:
248 1. Owned, leased, or otherwise controlled by the
249 organization or the organization's partners, affiliates,
250 subsidiaries, contractors, or agents; and
251 2. Operated, played, or otherwise interacted with by an
252 entrant to the game promotion.
253 (c)~~(a)~~ To design, engage in, promote, or conduct such a
254 game promotion, in connection with the promotion or sale of
255 consumer products or services, wherein the winner may be
256 predetermined or the game may be manipulated or rigged so as to:
257 1. Allocate a winning game or any portion thereof to
258 certain lessees, agents, or franchises; or
259 2. Allocate a winning game or part thereof to a particular
260 period of the game promotion or to a particular geographic area;
261 (d)~~(b)~~ Arbitrarily to remove, disqualify, disallow, or

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262 reject any entry;
263 (e) ~~(c)~~ To fail to award prizes offered;
264 (f) ~~(d)~~ To print, publish, or circulate literature or
265 advertising material used in connection with such game
266 promotions which is false, deceptive, or misleading; or
267 (g) ~~(e)~~ To require an entry fee, payment, or proof of
268 purchase as a condition of entering a game promotion.
269 (5) ~~(3)~~ The operator of a game promotion in which the total
270 announced value of the prizes offered is greater than $5,000
271 shall file with the Department of Agriculture and Consumer
272 Services a copy of the rules and regulations of the game
273 promotion and a list of all prizes and prize categories offered
274 at least 7 days before the commencement of the game promotion.
275 Such rules and regulations may not thereafter be changed,
276 modified, or altered. The operator of a game promotion shall
277 conspicuously post the rules and regulations of such game
278 promotion in each and every retail outlet or place where such
279 game promotion may be played or participated in by the public
280 and shall also publish the rules and regulations in all
281 advertising copy used in connection therewith. However, such
282 advertising copy need only include the material terms of the
283 rules and regulations if the advertising copy includes a website
284 address, a toll-free telephone number, or a mailing address
285 where the full rules and regulations may be viewed, heard, or
286 obtained for the full duration of the game promotion. Such
287 disclosures must be legible. Radio and television announcements
288 may indicate that the rules and regulations are available at
289 retail outlets or from the operator of the promotion. A
290 nonrefundable filing fee of $100 shall accompany each filing and

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291 shall be used to pay the costs incurred in administering and
292 enforcing the provisions of this section.
293 (6) ~~(4)~~ (a) Every operator of such a game promotion in which
294 the total announced value of the prizes offered is greater than
295 $5,000 shall establish a trust account, in a national or state-
296 chartered financial institution, with a balance sufficient to
297 pay or purchase the total value of all prizes offered. On a form
298 supplied by the Department of Agriculture and Consumer Services,
299 an official of the financial institution holding the trust
300 account shall set forth the dollar amount of the trust account,
301 the identity of the entity or individual establishing the trust
302 account, and the name of the game promotion for which the trust
303 account has been established. Such form shall be filed with the
304 Department of Agriculture and Consumer Services at least 7 days
305 in advance of the commencement of the game promotion. In lieu of
306 establishing such trust account, the operator may obtain a
307 surety bond in an amount equivalent to the total value of all
308 prizes offered; and such bond shall be filed with the Department
309 of Agriculture and Consumer Services at least 7 days in advance
310 of the commencement of the game promotion.
311 1. The moneys held in the trust account may be withdrawn in
312 order to pay the prizes offered only upon certification to the
313 Department of Agriculture and Consumer Services of the name of
314 the winner or winners and the amount of the prize or prizes and
315 the value thereof.
316 2. If the operator of a game promotion has obtained a
317 surety bond in lieu of establishing a trust account, the amount
318 of the surety bond shall equal at all times the total amount of
319 the prizes offered.

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320 (b) The Department of Agriculture and Consumer Services may
321 waive the provisions of this subsection for any operator who has
322 conducted game promotions in the state for not less than 5
323 consecutive years and who has not had any civil, criminal, or
324 administrative action instituted against him or her by the state
325 or an agency of the state for violation of this section within
326 that 5-year period. Such waiver may be revoked upon the
327 commission of a violation of this section by such operator, as
328 determined by the Department of Agriculture and Consumer
329 Services.
330 (7) ~~(5)~~ Every operator of a game promotion in which the
331 total announced value of the prizes offered is greater than
332 $5,000 shall provide the Department of Agriculture and Consumer
333 Services with a certified list of the names and addresses of all
334 persons, whether from this state or from another state, who have
335 won prizes which have a value of more than $25, the value of
336 such prizes, and the dates when the prizes were won within 60
337 days after such winners have been finally determined. The
338 operator shall provide a copy of the list of winners, without
339 charge, to any person who requests it. In lieu of the foregoing,
340 the operator of a game promotion may, at his or her option,
341 publish the same information about the winners in a Florida
342 newspaper of general circulation within 60 days after such
343 winners have been determined and shall provide to the Department
344 of Agriculture and Consumer Services a certified copy of the
345 publication containing the information about the winners. The
346 operator of a game promotion is not required to notify a winner
347 by mail or by telephone when the winner is already in possession
348 of a game card from which the winner can determine that he or

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349 she has won a designated prize. All winning entries shall be
350 held by the operator for a period of 90 days after the close or
351 completion of the game.
352 (8) ~~(6)~~ The Department of Agriculture and Consumer Services
353 shall keep the certified list of winners for a period of at
354 least 6 months after receipt of the certified list. The
355 department thereafter may dispose of all records and lists.
356 (9) ~~(7)~~ No operator shall force, directly or indirectly, a
357 lessee, agent, or franchise dealer to purchase or participate in
358 any game promotion. For the purpose of this section, coercion or
359 force shall be presumed in these circumstances in which a course
360 of business extending over a period of 1 year or longer is
361 materially changed coincident with a failure or refusal of a
362 lessee, agent, or franchise dealer to participate in such game
363 promotions. Such force or coercion shall further be presumed
364 when an operator advertises generally that game promotions are
365 available at its lessee dealers or agent dealers.
366 (10) ~~(8)~~(a) The Department of Agriculture and Consumer
367 Services shall have the power to promulgate such rules and
368 regulations respecting the operation of game promotions as it
369 may deem advisable. However, the department may not authorize
370 the operation or possession of a slot machine or device or any
371 other device that is otherwise prohibited from operation or
372 possession in the state and may not authorize game promotions to
373 be conducted through the use of any mechanically or
374 electronically operated machine, network, system, or device.
375 (b) Compliance with the rules of the department does not
376 authorize and is not a defense to a charge of possession of a
377 slot machine or device or any other device or a violation of any

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378 other law.
379 (c) ~~(b)~~ Whenever the Department of Agriculture and Consumer
380 Services or the Department of Legal Affairs has reason to
381 believe that a game promotion is being operated in violation of
382 this section, it may bring an action in the circuit court of any
383 judicial circuit in which the game promotion is being operated
384 in the name and on behalf of the people of the state against any
385 operator thereof to enjoin the continued operation of such game
386 promotion anywhere within the state.
387 (11) ~~(9)~~(a) Any person, firm, or corporation, or association
388 or agent or employee thereof, who engages in any acts or
389 practices stated in this section to be unlawful, or who violates
390 any of the rules and regulations made pursuant to this section,
391 commits ~~is guilty of~~ a misdemeanor of the second degree,
392 punishable as provided in s. 775.082 or s. 775.083.
393 (b) Any person, firm, or corporation, or association or
394 agent or employee thereof, who violates paragraph (4)(f) or
395 paragraph (4)(g) commits a felony of the third degree,
396 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
397 (c) ~~(b)~~ Any person, firm, corporation, association, agent,
398 or employee who violates any provision of this section or any of
399 the rules and regulations made pursuant to this section shall be
400 liable for a civil penalty of not more than $1,000 for each such
401 violation, which shall accrue to the state and may be recovered
402 in a civil action brought by the Department of Agriculture and
403 Consumer Services or the Department of Legal Affairs.
404 (12) A violation of this section, or soliciting another to
405 do an act which violates this section, is a deceptive and unfair
406 trade practice.

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407 (13) ~~(10)~~ This section does not apply to actions or
408 transactions regulated by the Department of Business and
409 Professional Regulation or to the activities of nonprofit
410 organizations or to any other organization engaged in any
411 enterprise other than the sale of consumer products or services.
412 Subsections ~~(3), (4),~~ (5), (6), ~~and~~ (7), (8), and (9) and
413 paragraph (10) ~~(8)~~(a) and any of the rules made pursuant thereto
414 do not apply to television or radio broadcasting companies
415 licensed by the Federal Communications Commission.
416 (14) Nothing in this section shall prohibit a corporation
417 or its wholly owned subsidiaries, or a franchisee association or
418 cooperative thereof, that is registered under the federal
419 Securities Exchange Act of 1934 and has total assets of not less
420 than $25 million from conducting a game promotion which can be
421 played on an electronic communication device, including, but not
422 limited to, a computer or a cellular telephone.
423 Section 4. Subsection (1) of section 849.15, Florida
424 Statutes, is amended to read:
425 849.15 Manufacture, sale, possession, etc., of coin-
426 operated devices prohibited.—
427 (1) It is unlawful:
428 (a) To manufacture, own, store, keep, possess, sell, rent,
429 lease, let on shares, lend or give away, transport, or expose
430 for sale or lease, or to offer to sell, rent, lease, let on
431 shares, lend or give away, or permit the operation of, or for
432 any person to permit to be placed, maintained, or used or kept
433 in any room, space, or building owned, leased, or occupied by
434 the person or under the person's management or control, any slot
435 machine or device or any part thereof, or other gambling

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436 apparatus or any part thereof that is otherwise prohibited from
437 operation or possession in the state; or
438 (b) To make or to permit to be made with any person any
439 agreement with reference to any slot machine or device, pursuant
440 to which the user thereof, as a result of any element of chance
441 or other outcome unpredictable to him or her, may become
442 entitled to receive any money, credit, allowance, or thing of
443 value or additional chance or right to use such machine or
444 device, or to receive any check, slug, token, or memorandum
445 entitling the holder to receive any money, credit, allowance, or
446 thing of value.
447 Section 5. Subsection (1) of section 849.16, Florida
448 Statutes, is amended to read:
449 849.16 Machines or devices which come within provisions of
450 law defined.—
451 (1) Any machine or device or system or network of computers
452 or other devices is a slot machine or device within the
453 provisions of this chapter if it is one that is adapted for use
454 in such a way that, as a result of the insertion of any piece of
455 money, coin, code, account number, credit, or other object or
456 method of activation, such machine, ~~or~~ device, or system or
457 network of computers or other devices is caused to operate or
458 may be operated, whether directly or as the result of indirect
459 remote activation, and if the user, by reason of any element of
460 chance or of any other outcome of such operation unpredictable
461 by him or her, may:
462 (a) Receive or become entitled to receive any piece of
463 money, credit, allowance, or thing of value, or any check, slug,
464 token, or memorandum, whether of value or otherwise, which may

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465 be exchanged for any money, credit, allowance, or thing of value
466 or which may be given in trade; or
467 (b) Secure additional chances or rights to use such
468 machine, apparatus, or device, even though it may, in addition
469 to any element of chance or unpredictable outcome of such
470 operation, also sell, deliver, or present some merchandise,
471 indication of weight, entertainment, or other thing of value.
472 Section 6. Paragraph (a) of subsection (1) of section
473 895.02, Florida Statutes, is amended to read:
474 895.02 Definitions.—As used in ss. 895.01-895.08, the term:
475 (1) "Racketeering activity" means to commit, to attempt to
476 commit, to conspire to commit, or to solicit, coerce, or
477 intimidate another person to commit:
478 (a) Any crime that is chargeable by petition, indictment,
479 or information under the following provisions of the Florida
480 Statutes:
481 1. Section 210.18, relating to evasion of payment of
482 cigarette taxes.
483 2. Section 316.1935, relating to fleeing or attempting to
484 elude a law enforcement officer and aggravated fleeing or
485 eluding.
486 3. Section 403.727(3)(b), relating to environmental
487 control.
488 4. Section 409.920 or s. 409.9201, relating to Medicaid
489 fraud.
490 5. Section 414.39, relating to public assistance fraud.
491 6. Section 440.105 or s. 440.106, relating to workers'
492 compensation.
493 7. Section 443.071(4), relating to creation of a fictitious

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494 employer scheme to commit unemployment compensation fraud.
495 8. Section 465.0161, relating to distribution of medicinal
496 drugs without a permit as an Internet pharmacy.
497 9. Section 499.0051, relating to crimes involving
498 contraband and adulterated drugs.
499 10. Part IV of chapter 501, relating to telemarketing.
500 11. Chapter 517, relating to sale of securities and
501 investor protection.
502 12. Section 550.235 or s. 550.3551, relating to dogracing
503 and horseracing.
504 13. Chapter 550, relating to jai alai frontons.
505 14. Section 551.109, relating to slot machine gaming.
506 15. Chapter 552, relating to the manufacture, distribution,
507 and use of explosives.
508 16. Chapter 560, relating to money transmitters, if the
509 violation is punishable as a felony.
510 17. Chapter 562, relating to beverage law enforcement.
511 18. Section 624.401, relating to transacting insurance
512 without a certificate of authority, s. 624.437(4)(c)1., relating
513 to operating an unauthorized multiple-employer welfare
514 arrangement, or s. 626.902(1)(b), relating to representing or
515 aiding an unauthorized insurer.
516 19. Section 655.50, relating to reports of currency
517 transactions, when such violation is punishable as a felony.
518 20. Chapter 687, relating to interest and usurious
519 practices.
520 21. Section 721.08, s. 721.09, or s. 721.13, relating to
521 real estate timeshare plans.
522 22. Section 775.13(5)(b), relating to registration of

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523 persons found to have committed any offense for the purpose of
524 benefiting, promoting, or furthering the interests of a criminal
525 gang.
526 23. Section 777.03, relating to commission of crimes by
527 accessories after the fact.
528 24. Chapter 782, relating to homicide.
529 25. Chapter 784, relating to assault and battery.
530 26. Chapter 787, relating to kidnapping or human
531 trafficking.
532 27. Chapter 790, relating to weapons and firearms.
533 28. Chapter 794, relating to sexual battery, but only if
534 such crime was committed with the intent to benefit, promote, or
535 further the interests of a criminal gang, or for the purpose of
536 increasing a criminal gang member’s own standing or position
537 within a criminal gang.
538 29. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
539 796.05, or s. 796.07, relating to prostitution and sex
540 trafficking.
541 30. Chapter 806, relating to arson and criminal mischief.
542 31. Chapter 810, relating to burglary and trespass.
543 32. Chapter 812, relating to theft, robbery, and related
544 crimes.
545 33. Chapter 815, relating to computer-related crimes.
546 34. Chapter 817, relating to fraudulent practices, false
547 pretenses, fraud generally, and credit card crimes.
548 35. Chapter 825, relating to abuse, neglect, or
549 exploitation of an elderly person or disabled adult.
550 36. Section 827.071, relating to commercial sexual
551 exploitation of children.

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552 37. Chapter 831, relating to forgery and counterfeiting.
553 38. Chapter 832, relating to issuance of worthless checks
554 and drafts.
555 39. Section 836.05, relating to extortion.
556 40. Chapter 837, relating to perjury.
557 41. Chapter 838, relating to bribery and misuse of public
558 office.
559 42. Chapter 843, relating to obstruction of justice.
560 43. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
561 s. 847.07, relating to obscene literature and profanity.
562 44. Section 849.09, s. 849.14, s. 849.15, s. 849.162, s.
563 849.23, or s. 849.25, relating to gambling.
564 45. Chapter 874, relating to criminal gangs.
565 46. Chapter 893, relating to drug abuse prevention and
566 control.
567 47. Chapter 896, relating to offenses related to financial
568 transactions.
569 48. Sections 914.22 and 914.23, relating to tampering with
570 or harassing a witness, victim, or informant, and retaliation
571 against a witness, victim, or informant.
572 49. Sections 918.12 and 918.13, relating to tampering with
573 jurors and evidence.
574 Section 7. Nothing in this act may be construed to
575 authorize the possession or operation of any machine or device
576 that is prohibited under any other provision of law.
577 Section 8. Subsection (2) of section 721.111, Florida
578 Statutes, is amended to read:
579 721.111 Prize and gift promotional offers.—
580 (2) A game promotion, such as a contest of chance, gift

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

581 enterprise, or sweepstakes, in which the elements of chance and
582 prize are present may not be used in connection with the
583 offering or sale of timeshare interests, except for drawings, as
584 that term is defined in s. 849.0935(1)(a), in which no more than
585 26 prizes are promoted and in which all promoted prizes are
586 actually awarded. All such drawings must meet all requirements
587 of this chapter and of ss. 849.092 and 849.094(1), (4) ~~(2)~~, and
588 (9) ~~(7)~~.
589 Section 9. For the purpose of incorporating the amendment
590 made by this act to section 895.02, Florida Statutes, in a
591 reference thereto, paragraph (a) of subsection (1) of section
592 16.56, Florida Statutes, is reenacted to read:
593 16.56 Office of Statewide Prosecution.—
594 (1) There is created in the Department of Legal Affairs an
595 Office of Statewide Prosecution. The office shall be a separate
596 "budget entity" as that term is defined in chapter 216. The
597 office may:
598 (a) Investigate and prosecute the offenses of:
599 1. Bribery, burglary, criminal usury, extortion, gambling,
600 kidnapping, larceny, murder, prostitution, perjury, robbery,
601 carjacking, and home-invasion robbery;
602 2. Any crime involving narcotic or other dangerous drugs;
603 3. Any violation of the provisions of the Florida RICO
604 (Racketeer Influenced and Corrupt Organization) Act, including
605 any offense listed in the definition of racketeering activity in
606 s. 895.02(1)(a), providing such listed offense is investigated
607 in connection with a violation of s. 895.03 and is charged in a
608 separate count of an information or indictment containing a
609 count charging a violation of s. 895.03, the prosecution of

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610 which listed offense may continue independently if the
611 prosecution of the violation of s. 895.03 is terminated for any
612 reason;
613 4. Any violation of the provisions of the Florida Anti-
614 Fencing Act;
615 5. Any violation of the provisions of the Florida Antitrust
616 Act of 1980, as amended;
617 6. Any crime involving, or resulting in, fraud or deceit
618 upon any person;
619 7. Any violation of s. 847.0135, relating to computer
620 pornography and child exploitation prevention, or any offense
621 related to a violation of s. 847.0135 or any violation of
622 chapter 827 where the crime is facilitated by or connected to
623 the use of the Internet or any device capable of electronic data
624 storage or transmission;
625 8. Any violation of the provisions of chapter 815;
626 9. Any criminal violation of part I of chapter 499;
627 10. Any violation of the provisions of the Florida Motor
628 Fuel Tax Relief Act of 2004;
629 11. Any criminal violation of s. 409.920 or s. 409.9201;
630 12. Any crime involving voter registration, voting, or
631 candidate or issue petition activities;
632 13. Any criminal violation of the Florida Money Laundering
633 Act; or
634 14. Any criminal violation of the Florida Securities and
635 Investor Protection Act; or any attempt, solicitation, or
636 conspiracy to commit any of the crimes specifically enumerated
637 above. The office shall have such power only when any such
638 offense is occurring, or has occurred, in two or more judicial

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

639 circuits as part of a related transaction, or when any such
640 offense is connected with an organized criminal conspiracy
641 affecting two or more judicial circuits. Informations or
642 indictments charging such offenses shall contain general
643 allegations stating the judicial circuits and counties in which
644 crimes are alleged to have occurred or the judicial circuits and
645 counties in which crimes affecting such circuits or counties are
646 alleged to have been connected with an organized criminal
647 conspiracy.
648 Section 10. For the purpose of incorporating the amendment
649 made by this act to section 849.16, Florida Statutes, in a
650 reference thereto, subsection (1) of section 338.234, Florida
651 Statutes, is reenacted to read:
652 338.234 Granting concessions or selling along the turnpike
653 system; immunity from taxation.—
654 (1) The department may enter into contracts or licenses
655 with any person for the sale of services or products or business
656 opportunities on the turnpike system, or the turnpike enterprise
657 may sell services, products, or business opportunities on the
658 turnpike system, which benefit the traveling public or provide
659 additional revenue to the turnpike system. Services, business
660 opportunities, and products authorized to be sold include, but
661 are not limited to, motor fuel, vehicle towing, and vehicle
662 maintenance services; food with attendant nonalcoholic
663 beverages; lodging, meeting rooms, and other business services
664 opportunities; advertising and other promotional opportunities,
665 which advertising and promotions must be consistent with the
666 dignity and integrity of the state; state lottery tickets sold
667 by authorized retailers; games and amusements that operate by

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

668 the application of skill, not including games of chance as
669 defined in s. 849.16 or other illegal gambling games; Florida
670 citrus, goods promoting the state, or handmade goods produced
671 within the state; and travel information, tickets, reservations,
672 or other related services. However, the department, pursuant to
673 the grants of authority to the turnpike enterprise under this
674 section, shall not exercise the power of eminent domain solely
675 for the purpose of acquiring real property in order to provide
676 business services or opportunities, such as lodging and meeting-
677 room space on the turnpike system.
678 Section 11. For the purpose of incorporating the amendment
679 made by this act to section 895.02, Florida Statutes, in a
680 reference thereto, paragraph (g) of subsection (3) of section
681 655.50, Florida Statutes, is reenacted to read:
682 655.50 Florida Control of Money Laundering in Financial
683 Institutions Act; reports of transactions involving currency or
684 monetary instruments; when required; purpose; definitions;
685 penalties.—
686 (3) As used in this section, the term:
687 (g) "Specified unlawful activity" means any "racketeering
688 activity" as defined in s. 895.02.
689 Section 12. For the purpose of incorporating the amendment
690 made by this act to section 849.16, Florida Statutes, in a
691 reference thereto, section 849.19, Florida Statutes, is
692 reenacted to read:
693 849.19 Property rights in confiscated machine.—The right of
694 property in and to any machine, apparatus or device as defined
695 in s. 849.16 and to all money and other things of value therein,
696 is declared not to exist in any person, and the same shall be

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697 forfeited and such money or other things of value shall be
698 forfeited to the county in which the seizure was made and shall
699 be delivered forthwith to the clerk of the circuit court and
700 shall by her or him be placed in the fine and forfeiture fund of
701 said county.
702 Section 13. For the purpose of incorporating the amendment
703 made by this act to section 895.02, Florida Statutes, in a
704 reference thereto, paragraph (g) of subsection (2) of section
705 896.101, Florida Statutes, is reenacted to read:
706 896.101 Florida Money Laundering Act; definitions;
707 penalties; injunctions; seizure warrants; immunity.—
708 (2) As used in this section, the term:
709 (g) "Specified unlawful activity" means any "racketeering
710 activity" as defined in s. 895.02.
711 Section 14. For the purpose of incorporating the amendment
712 made by this act to section 895.02, Florida Statutes, in a
713 reference thereto, subsection (3) of section 905.34, Florida
714 Statutes, is reenacted to read:
715 905.34 Powers and duties; law applicable.—The jurisdiction
716 of a statewide grand jury impaneled under this chapter shall
717 extend throughout the state. The subject matter jurisdiction of
718 the statewide grand jury shall be limited to the offenses of:
719 (3) Any violation of the provisions of the Florida RICO
720 (Racketeer Influenced and Corrupt Organization) Act, including
721 any offense listed in the definition of racketeering activity in
722 s. 895.02(1)(a), providing such listed offense is investigated
723 in connection with a violation of s. 895.03 and is charged in a
724 separate count of an information or indictment containing a
725 count charging a violation of s. 895.03, the prosecution of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

726 which listed offense may continue independently if the
727 prosecution of the violation of s. 895.03 is terminated for any
728 reason; or any attempt, solicitation, or conspiracy to commit
729 any violation of the crimes specifically enumerated above, when
730 any such offense is occurring, or has occurred, in two or more
731 judicial circuits as part of a related transaction or when any
732 such offense is connected with an organized criminal conspiracy
733 affecting two or more judicial circuits. The statewide grand
734 jury may return indictments and presentments irrespective of the
735 county or judicial circuit where the offense is committed or
736 triable. If an indictment is returned, it shall be certified and
737 transferred for trial to the county where the offense was
738 committed. The powers and duties of, and law applicable to,
739 county grand juries shall apply to a statewide grand jury except
740 when such powers, duties, and law are inconsistent with the
741 provisions of ss. 905.31-905.40.
742 Section 15. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 428
FINAL ACTION:
MEETING DATE: Thursday, January 19, 2012
TIME: 8:15 —10:00 a.m.
PLACE: 110 Senate Office Building

FINAL VOTE			1/19/2012 8:15AM 1 Temporarily Postponed					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
		Altman						
		Bogdanoff						
		Braynon						
		Dean						
		Diaz de la Portilla						
		Rich						
		Siplin						
		Thrasher						
		Sachs, VICE CHAIR						
		Jones, CHAIR						
		TOTALS						
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order

REPORTING INSTRUCTION: Publish
01192012.1217

S0428

GENERAL BILL by Oelrich; (CO-INTRODUCERS) Gaetz; Gardiner; (Identical H 0003, Compare CS/S 0710)

Prohibition of Simulated Gambling Devices. EFFECTIVE DATE: upon becoming a law.

11/02/11 S Referred to Regulated Industries; Rules -SJ 38
01/10/12 S Introduced -SJ 38
01/13/12 S On Committee agenda-- Regulated Industries, 01/19/12, 8:15 am, 110 Senate Office Building --Temporarily Postponed

The Florida Senate

Committee Agenda Request

To: Senator Dennis L. Jones, D.C., Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: November 14, 2011

I respectfully request that **Senate Bill # 428**, relating to Prohibition of Simulated Gambling Devices, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Steve Oelrich

Senator Steve Oelrich
Florida Senate, District 14

File signed original with committee office

S-020 (03/2004)

PLEASE FILL OUT THE ENTIRE FORM AND SUBMIT TWO COPIES TO THE COMMITTEE/SUBCOMMITTEE ADMINISTRATIVE ASSISTANT AT THE MEETING

TYPE OR PRINT CLEARLY

COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill Number 428 **Date** 1/19/10

Name Kent Perez

Title General Counsel

Address PL 01 The Capitol

City Tallahassee **State/Zip** FL

Phone Number 850-245-0140

Representing Office of the Attorney General

Lobbyist (registered) YES ☑ NO ☐

State Employee YES ☑ NO ☐

If you are testifying regarding an amendment, please indicate if your position as a proponent or an opponent is the same as on the bill as a whole.

			Amendment	Bill
I wish to speak	☑	Proponent	☐	☑
I have been requested to speak	☐	Opponent	☐	☐
		Information	☐	☐

Subject matter: Internet Cafes

Committee/Subcommittee: Regulated Industries

H-16 (2010)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic _____

Bill Number 428 *(if applicable)*

Name Richard Pinsky

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 106 E. College Av.
Street

Tallahassee FL. 32301
City *State* *Zip*

Phone _____

E-mail _____

Speaking: [✓] For [ ] Against [ ] Information

Representing FL. Arcade + Bingo Assn.

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 19
Meeting Date

Topic: Simulated Gaming Devices

Bill Number: SB 428 *(if applicable)*

Name: Phillip Singleton

Amendment Barcode: *(if applicable)*

Job Title:

Address: 1028 East Park Avenue
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-345-1807

E-mail: phillip@pittman-law.com

Speaking: [x] For [ ] Against [ ] Information

Representing: City of Port Orange

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12
Meeting Date

Topic: Internet Cafes

Bill Number: ~~[illegible]~~ 428 (if applicable)

Name: Kent Perez

Amendment Barcode: _____ (if applicable)

Job Title: General Counsel

Address: PL 02 Capitol
Street

Tallahassee, FL
City, State, Zip

Phone: 850-245-0140

E-mail: _____

Speaking: [x] For [ ] Against [ ] Information

Representing: Office of the Attorney General

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/2012
Meeting Date

Topic: ELECTRONIC GAME PROMOTIONS

Bill Number: 428 (if applicable)

Name: LAURIE LEE

Amendment Barcode: _____ (if applicable)

Job Title: ATTORNEY

Address: 1200 RIVERPLACE BLVD #902
Street

JACKSONVILLE FL 32207
City State Zip

Phone: 904-396-5500

E-mail: llee@mathislaw.net

Speaking: ☐ For ☒ Against ☐ Information

Representing: INTERNATIONAL INTERNET TECHNOLOGIES

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic: Electronic Game Commissions

Bill Number: 428 *(if applicable)*

Name: Harry Chaires

Amendment Barcode: _____ *(if applicable)*

Job Title: Owner Armed Security Company

Address: 4813 Chaires Crossroad
Street

Tallahassee, Fl 32317
City *State* *Zip*

Phone: 850-510-0605

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic: Prohibition of Simulated Gambling Devices

Bill Number: SB 428 *(if applicable)*

Name: April Kirsheman

Amendment Barcode: _____ *(if applicable)*

Job Title: General Counsel

Address: 100 Bush Blvd
Street

Sanford Fl 32773
City *State* *Zip*

Phone: 407 665-6672

E-mail: akirsheman@seminolesheriff.org

Speaking: [X] For [ ] Against [ ] Information

Representing: FSA

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 19 2012
Meeting Date

Topic: Simulated Gambling Devices

Bill Number: 428 *(if applicable)*

Name: Joseph Cocchiarella

Amendment Barcode: _____ *(if applicable)*

Job Title: Assistant State Attorney - Prosecutor

Address: 415 N. Orange Avenue
Street

Orlando Florida 32801
City *State* *Zip*

Phone: 407-836-9701

E-mail: _____

Speaking: [X] For [ ] Against [X] Information

Representing: _____

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic: Gambling

Bill Number: SB 428 (if applicable)

Name: Skip Jarvis

Amendment Barcode: (if applicable)

Job Title: State Attorney - 3rd Judicial Circuit

Address: 100 SE Court St (Street)

Live Oak (City) Fl (State) 32064 (Zip)

Phone: 386 362.2320

E-mail: skip.jarvis@sa3.state.fl.us

Speaking: [x] For [ ] Against [ ] Information

Representing:

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic _____

Bill Number 428 *(if applicable)*

Name Melissa Barfield

Amendment Barcode _____ *(if applicable)*

Job Title Ex. Director

Address 1341 College Park Rd
Street

Summerville, SC 29483
City *State* *Zip*

Phone 843-830-9542

E-mail mbarfield@childrensca.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Childrens Cancer Cooperative

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic: Internet Cafe

Bill Number: 428 *(if applicable)*

Name: Barbara Harrison

Amendment Barcode: *(if applicable)*

Job Title: Cashier

Address: 3030 S. Monroe
Street

Tallahassee FL 32305
City *State* *Zip*

Phone: 850-509-6764

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: allied Veterans

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/19/12
Meeting Date

Topic: Gambling Devices

Bill Number: SB 428 *(if applicable)*

Name: Mark Jeffries

Amendment Barcode: *(if applicable)*

Job Title: Public Affairs Director

Address: 201 S. Rosalind ~~Ave~~ St.
Street

Orlando FL 32801
City *State* *Zip*

Phone: 407-836-5909

E-mail: mark.jeffries@ocfl.net

Speaking: [x] For [ ] Against [ ] Information

Representing: Orange County

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01.19.12
Meeting Date

Topic: INTERNET CAFE

Bill Number: 428 *(if applicable)*

Name: BRIAN BOSCO

Amendment Barcode: *(if applicable)*

Job Title: CAPTAIN

Address: 123 W. INDIANA AVE
Street

DELAND, FL
City, State, Zip

Phone: 386-547-9208

E-mail: bbosco@vcso.us

Speaking: [x] For [ ] Against [ ] Information

Representing: Sheriff Ben Johnson

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-19-12
Meeting Date

Topic: SB 428

Bill Number: 428 *(if applicable)*

Name: David Hart

Amendment Barcode: _____ *(if applicable)*

Job Title: Florida Chamber

Address: _____
Street

_____
City *State* *Zip*

Phone: _____

E-mail: _____

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Chamber of Commerce

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

JAN 19 2012
Meeting Date

Topic: PROHIBITION of SIMULATED GAMBLING DEVICES

Bill Number: 428 *(if applicable)*

Name: BILL BUNKLEY

Amendment Barcode: *(if applicable)*

Job Title: PRESIDENT

Address: PO BOX 340288
Street

TAMPA FL 33694
City *State* *Zip*

Phone: 813.264.2977

E-mail:

Speaking: ☐ For ☑ Against ☐ Information

Representing: FLORIDA ETHICS AND RELIGIOUS LIBERTY COMMISSION

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

CourtSmart Tag Report

Room: EL 110 **Case:** **Type:**
Caption: Senate Regulated Industries Committee **Judge:**

Started: **1/19/2012 8:16:25 AM**
Ends: **1/19/2012 9:43:30 AM** **Length: 01:27:06**

8:16:28 AM	Meeting called to order
8:16:39 AM	Roll call
8:17:03 AM	SB 454 - Senator Wise
8:17:18 AM	Senator Wise presenting the bill
8:18:44 AM	Roll call on SB 454
8:18:58 AM	Bill passes
8:19:03 AM	SB 646 - Senator Wise
8:19:19 AM	Senator Wise to explain the bill
8:20:09 AM	Senator Dean with a question
8:20:55 AM	Amendment #246502 - Senator Thrasher
8:21:15 AM	Amendment - Adopted
8:22:02 AM	Roll call on passage of CS/646
8:22:27 AM	Bill passes
8:22:32 AM	SB 762 - Senator Hays
8:22:54 AM	Paul Runk to explain the bill
8:23:41 AM	Ken Lawson, Secretary DBPR
8:24:17 AM	Roll call on passage of SB 762
8:24:36 AM	Bill passes
8:24:53 AM	SB 380 - Senator Diaz de la Portilla
8:25:32 AM	Senator Diaz de la Portilla to explain the bill
8:31:57 AM	Amendment #686452 - Senator Diaz de la Portilla
8:32:26 AM	Amendment - Adopted
8:32:41 AM	Senator Thrasher with questions
8:33:19 AM	Senator Siplin with a question
8:34:08 AM	Senator Sachs with questions
8:37:43 AM	Mark Alvarez, Veterans of Foreign Wars
8:39:47 AM	Joseph Corchirrella, Assistant State Attorney Orange County
8:43:10 AM	Senator Diaz de la Portilla questioning
8:45:09 AM	Senator Thrasher with questions
8:46:00 AM	Senator Sachs with questions
8:48:01 AM	Senator Siplin with a question
8:48:33 AM	Senator Altman with questions
8:50:13 AM	April Kirsheman, FSA
8:53:32 AM	Laurie Lee, International Internet Technologies
8:56:58 AM	Senator Thrasher with questions
8:58:41 AM	Harry Chaires, representing himself
9:00:40 AM	Melissa Barfield, Childrens Cancer Cooperative
9:02:28 AM	Julie Slattery, representing herself
9:04:54 AM	Senator Altman with quesions
9:06:11 AM	Ken Perez, Office of the Attorney General
9:06:52 AM	Senator Sachs with questions
9:08:59 AM	Senator Altman commenting
9:09:56 AM	Senator Sachs commenting
9:11:46 AM	Senator Dean commenting
9:12:55 AM	Senator Thrasher commenting
9:14:07 AM	Senator Diaz de la Portilla to close on the bill
9:19:23 AM	Senator Sachs moves SB 308 as a CS
9:19:39 AM	Roll call on passage of CS/SB 380
9:19:54 AM	Bill passes
9:20:09 AM	SB 428 - Senator Oelrich
9:20:27 AM	Senator Oelrich to explain his bill
9:22:46 AM	Senator Altman questioning

9:25:20 AM	April Kirsheman, FSA
9:29:40 AM	Joseph Corchiorella, Assistant State Attorney, Orange County
9:31:39 AM	Skip Jarvis, Live Oak Florida State Attorney
9:32:52 AM	Ken Perez, Attorney Generals Office
9:35:29 AM	Bill Bunkley, FL Ethics and Religious Liberty Commission
9:37:16 AM	Senator Diaz de la Portilla commenting
9:41:45 AM	Senator Altman commenting
9:43:05 AM	Senator Oelrich asks to TP the bill
9:43:18 AM	Meeting adjourned