

**SB 654** by **Hays (CO-INTRODUCERS) Sobel**; (Compare to CS/H 0479) Euthanasia of Domestic Animals

|        |   |   |     |          |                         |                |
|--------|---|---|-----|----------|-------------------------|----------------|
| 520502 | D | S | RCS | RI, Dean | Delete everything after | 02/05 12:13 PM |
|--------|---|---|-----|----------|-------------------------|----------------|

**SB 986** by **Altman (CO-INTRODUCERS) Hays**; (Similar to H 0883) Slot Machines and Slot Machine Components

|        |   |   |  |                         |                     |                |
|--------|---|---|--|-------------------------|---------------------|----------------|
| 725726 | A | S |  | RI, Sachs               | btw L.23 - 24:      | 02/02 03:19 PM |
| 690838 | A | S |  | RI, Sachs               | btw L.243 - 244:    | 02/02 03:18 PM |
| 233724 | A | S |  | RI, Altman              | Delete L.253 - 256: | 02/01 09:38 AM |
| 207754 | A | S |  | RI, Diaz de la Portilla | btw L.255 - 256:    | 02/02 01:23 PM |
| 224720 | A | S |  | RI, Diaz de la Portilla | btw L.255 - 256:    | 02/02 02:02 PM |

**SB 1286** by **Thrasher**; (Compare to CS/H 1019) Treatment Programs for Impaired Professionals

|        |   |   |     |              |                   |                |
|--------|---|---|-----|--------------|-------------------|----------------|
| 184246 | A | S | RCS | RI, Thrasher | Delete L.51 - 63. | 02/03 03:15 PM |
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**SB 1120** by **Jones**; (Compare to H 0693) Department of Business and Professional Regulation

**SB 1252** by **Jones**; (Similar to CS/H 0887) Business and Professional Regulation

|        |    |   |     |               |                         |                |
|--------|----|---|-----|---------------|-------------------------|----------------|
| 495654 | D  | S | RCS | RI, Jones     | Delete everything after | 02/05 12:13 PM |
| 265458 | AA | S | RCS | RI, Jones     | Delete L.156 - 221:     | 02/05 12:13 PM |
| 566892 | AA | S | RCS | RI, Jones     | Delete L.249 - 252:     | 02/05 12:13 PM |
| 246586 | AA | S | RCS | RI, Bogdanoff | Delete L.300 - 301:     | 02/05 12:13 PM |

**SB 902** by **Jones**; (Similar to CS/H 0843) Department of the Lottery

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**REGULATED INDUSTRIES**  
**Senator Jones, Chair**  
**Senator Sachs, Vice Chair**

**MEETING DATE:** Thursday, February 2, 2012  
**TIME:** 3:15 —5:15 p.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<br>SENATE COMMITTEE ACTIONS   | COMMITTEE ACTION         |
|-----|---|--|--------------------------|
| 1   | <b>SB 654</b><br>Hays<br>(Compare CS/H 479) | Euthanasia of Domestic Animals; Requiring that the Board of Pharmacy adopt rules relating to the issuance of permits authorizing the purchase, possession, and use of certain controlled substances and legend drugs necessary for the euthanasia and chemical immobilization of animals; authorizing the Board of Pharmacy, at the request of the Board of Veterinary Medicine, to adopt a rule to increase the number of controlled substances and legend drugs available to euthanize injured, sick, or abandoned domestic animals or to chemically immobilize such animals; prohibiting the delivery of a lethal solution or powder by adding it to food; requiring that an animal control officer, a wildlife officer, and an animal disease diagnostic laboratory report knowledge of any animal bite, any diagnosis or suspicion of a grouping or clustering of animals having similar disease, or any symptom or syndrome that may indicate the presence of a threat to humans, etc.<br><br>RI 02/02/2012 Fav/CS<br>HR<br>BC | Fav/CS<br>Yeas 10 Nays 0 |
| 2   | <b>SB 986</b><br>Altman<br>(Similar H 883)  | Slot Machines and Slot Machine Components; Requiring the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules regulating slot machines and providing specifications for the internal components of slot machines; requiring that the division adopt specifications and procedures to ensure random probabilities of winning plays and provide for the operation of random-number generators; deleting obsolete provisions; clarifying duties of a slot machine licensee to conform to changes made by the act; prohibiting a slot machine's random-number generator from serving more than one station or terminal where an individual player places his or her wagers; providing for progressive jackpot payouts except in conjunction with slot machines between other licensed facilities, etc.<br><br>RI 02/02/2012 Temporarily Postponed<br>BC<br>RC   | Temporarily Postponed    |

**COMMITTEE MEETING EXPANDED AGENDA**

Regulated Industries

Thursday, February 2, 2012, 3:15 —5:15 p.m.

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| TAB | BILL NO. and INTRODUCER   | BILL DESCRIPTION and<br>SENATE COMMITTEE ACTIONS  | COMMITTEE ACTION            |
|-----|---|---|-----------------------------|
| 3   | <b>SB 1286</b><br>Thrasher<br>(Identical H 1019)                                      | Treatment Programs for Impaired Professionals;<br>Authorizing the Department of Business and<br>Professional Regulation to require a person licensed<br>by or applying for a license from the department to be<br>governed by provisions providing programs for<br>impaired practitioners under the jurisdiction of the<br>Division of Medical Quality Assurance within the<br>Department of Health; providing that an emergency<br>medical technician or paramedic or radiologic<br>technologist who is certified or has applied to be<br>certified may be subject to a treatment program for<br>impaired practitioners at the election of the impaired<br>practitioner consultant; exempting an entity retained<br>by the Department of Health as an impaired<br>practitioner consultant from certain licensing<br>requirements if the entity employs or contracts with<br>licensed professionals, etc.<br><br>RI 02/02/2012 Fav/CS<br>HR<br>BC   | Fav/CS<br>Yeas 10 Nays 0    |
| 4   | <b>SB 1120</b><br>Jones<br>(Compare H 693, H 4043, H 4045,<br>H 4097, H 4115, H 4153) | Department of Business and Professional Regulation;<br>Deleting a provision that allows the cigarette tax to be<br>paid by affixing a stamp insignia through a metering<br>machine; requiring retail dealers of cigarettes, rather<br>than wholesale dealers, to affix to each such<br>machine, in a conspicuous place, an identification<br>sticker furnished by the Division of Alcoholic<br>Beverages and Tobacco within the Department of<br>Business and Professional Regulation; deleting a<br>provision that requires an applicant for a real estate<br>license who is not a resident of this state to file an<br>irrevocable consent regarding lawsuits and actions<br>commenced against the applicant; deleting the<br>requirement that an applicant to be chief administrator<br>of a proprietary real estate school or state institution<br>meet certain qualifications for licensure as a broker<br>associate or sales associate and other minimal<br>requirements, etc.<br><br>RI 02/02/2012 Favorable<br>BC | Favorable<br>Yeas 10 Nays 0 |

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**COMMITTEE MEETING EXPANDED AGENDA**

Regulated Industries

Thursday, February 2, 2012, 3:15 —5:15 p.m.

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| TAB | BILL NO. and INTRODUCER  | BILL DESCRIPTION and<br>SENATE COMMITTEE ACTIONS   | COMMITTEE ACTION            |
|-----|--|--|-----------------------------|
| 5   | <b>SB 1252</b><br>Jones<br>(Similar CS/H 887, Compare H<br>1345, S 76) | Business and Professional Regulation; Expanding divisions of the Department of Business and Professional Regulation to include the Florida State Boxing Commission; revising the definition of the term "profession" to include the regulatory purview of the Florida State Boxing Commission; waiving initial licensing, application, and unlicensed activity fees for certain military veterans; authorizing distance learning courses as an acceptable alternative to classroom instruction for renewal of a real estate instructor permit; exempting from cosmetology licensure individuals who perform makeup services to the general public; reviving grandfathering provisions and establishing a new deadline for applications for certification of certain registered contractors, etc.<br><br>RI 02/02/2012 Fav/CS<br>CJ<br>BC | Fav/CS<br>Yeas 10 Nays 0    |
| 6   | <b>SB 902</b><br>Jones<br>(Similar CS/H 843)                           | Department of the Lottery; Deleting provisions authorizing the use of player-activated machines that dispense instant lottery game tickets; requiring the department to lease vending machines that dispense online lottery tickets or instant lottery tickets; authorizing the use of vending machines to dispense online lottery tickets or instant lottery tickets; specifying requirements for the vending machines; specifying requirements for retailers that use the vending machines, etc.<br><br>RI 02/02/2012 Favorable<br>BC  | Favorable<br>Yeas 10 Nays 0 |

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Other Related Meeting Documents

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

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

Prepared By: The Professional Staff of the Regulated Industries Committee

**BILL:** CS/SB 654

**INTRODUCER:** Regulated Industries Committee and Senator Hays and others

**SUBJECT:** Euthanasia of Domestic Animals

**DATE:** February 2, 2012      **REVISED:** \_\_\_\_\_

|    | ANALYST    | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|------------|----------------|-----------|---------------|
| 1. | Harrington | Imhof          | RI        | <b>Fav/CS</b> |
| 2. |            |                | HR        |               |
| 3. |            |                | BC        |               |
| 4. |            |                |           |               |
| 5. |            |                |           |               |
| 6. |            |                |           |               |

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

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

**I. Summary:**

The Committee Substitute (CS) requires an animal control officer, a wildlife officer, and an animal disease diagnostic laboratory to report to the Department of Health knowledge of any animal bite, diagnosis or suspicion of a group of animals having a similar disease, or any symptom or syndrome that may pose a threat to humans.

The CS expands the list of drugs that can be used to euthanize domestic animals and adds certain drugs that may be used to immobilize domestic animals. The CS allows the Board of Pharmacy, at the request of the Board of Veterinary Medicine, to expand the list of drugs that may be used to euthanize or immobilize domestic animals in the future if findings support the addition of drugs to the list for humane and lawful treatment of animals. The CS limits the possession and use of these drugs to animal control officers and employees or agents of animal control agencies and humane societies while operating within the scope of their employment or official duties.

The CS clarifies that the Department of Health is responsible for issuing the permit for possession and use of the euthanasia and immobilization drug permits.

The CS provides the Department of Health and the Board of Pharmacy with the authority to deny a permit, or fine, place on probation, or otherwise discipline an applicant or permittee for failure to maintain certain standards or for violations of the statutes. The CS allows the Department of Health to immediately suspend a permit through emergency order upon a determination that a permittee poses a threat to public health, safety, and welfare.

Lastly, the CS eliminates food-based delivery of euthanasia drugs as an acceptable method of euthanization. The CS permits euthanasia by intracardial injection only upon an unconscious dog or cat which exhibits no corneal reflex.

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

This CS substantially amends the following sections of the Florida Statutes: 381.0031, 828.055, and 828.058.

## II. Present Situation:

### **Animal Control in Florida**

Animal control agencies operated by a humane society or by a city, county or other political subdivision are generally responsible for enforcing state, county and local animal control laws and regulations in Florida. Animal control officers employed or appointed by a county or municipality are authorized to investigate violations of animal control laws or regulations.<sup>1</sup> The governing body of a county or municipality is authorized to enact animal control ordinances.<sup>2</sup>

### **Euthanasia of Domestic Animals in Florida**

Euthanasia is the act or practice of killing or permitting the death of sick or injured animals in a relatively painless way for reasons of mercy.<sup>3</sup> National euthanasia statistics are difficult to calculate because there is not a mandatory requirement for states to keep records on the number of animals taken in, adopted, euthanized, or reclaimed.<sup>4</sup> It is estimated that 3.7 million animals were euthanized nationwide in 2008.<sup>5</sup>

In Florida, the only approved drugs for use in euthanasia of domestic animals are sodium pentobarbital or a sodium pentobarbital derivative. Euthanasia drugs are to be delivered by the following methods, in order of preference:<sup>6</sup>

- Intravenous injection by hypodermic needle;
- Intraperitoneal injection by hypodermic needle;
- Intracardial injection by hypodermic needle; or
- Solution or powder added to food.

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<sup>1</sup> Section 828.27, F.S.

<sup>2</sup> Section 828.27(2), F.S.

<sup>3</sup> See Merriam-Webster Online Dictionary at: [www.merriam-webster.com/dictionary/euthanasia](http://www.merriam-webster.com/dictionary/euthanasia) (last viewed January 30, 2012).

<sup>4</sup> See American Humane Association at: <http://www.americanhumane.org/animals/stop-animal-abuse/fact-sheets/animal-shelter-euthanasia.html> (last viewed January 30, 2012).

<sup>5</sup> *Id.*

<sup>6</sup> Section 828.058(1), F.S.

In order for an animal control agency or humane agency to provide euthanasia services, the agency must obtain a permit from the Department of Health (DOH) to purchase, possess, and use the euthanasia drugs approved by statute. Current law states that the Department of Business and Professional Regulation (DBPR) is responsible for receiving the application for, and issuing, the permit.<sup>7</sup> The law was enacted at a time when health care professional boards were administratively housed under DPBR. However, due to reorganization of DBPR and the DOH, DOH and the Board of Pharmacy have primary responsibility for evaluating applications for the permit, issuing the permit, and taking disciplinary actions against holders of the permit for violations of law and rule.

The Board of Pharmacy, within the DOH, has adopted rules to govern the issuance of permits to county or municipal animal control agencies or humane agencies registered with the Secretary of State to purchase, possess, and use sodium pentobarbital and sodium pentobarbital with lidocaine to euthanize sick, injured or abandoned domestic animals.<sup>8</sup> Currently, there are 105 active animal control shelter permits with the Board of Pharmacy. The initial cost of the permit is \$50.00 and is renewable biennially.<sup>9</sup> The Department of Business and Professional Regulation issues exemption letters to entities which authorize the entities to possess immobilizers without violating s. 499.03, F.S., which imposes criminal sanctions for the unauthorized possession of habit-forming, toxic, harmful, or new drugs.<sup>10</sup> The Department of Business and Professional Regulation does not charge a fee for issuing the exemption letter.

Euthanasia can only be performed by a licensed veterinarian or an employee or agent of an agency, animal shelter or other facility operated for the collection and care of stray, neglected, abandoned, or unwanted animals if the employee or agent has completed an euthanasia technician certification course.<sup>11</sup> However, any law enforcement officer, veterinarian, officer or agent of a municipal or county animal control unit, or officer or agent of any society or association for the prevention of cruelty to animals may destroy a sick or injured animal by shooting the animal or injecting it with a barbiturate drug if the officer or agent finds the animal so injured or sick as to appear useless and suffering, and the officer or agent reasonably believes the animal is imminently near death or cannot be cured, and a reasonable attempt is made to locate the owner of the animal or a veterinarian for consultation regarding destruction of the animal.<sup>12</sup>

### **Disease Reporting**

Section 381.0031, F.S., requires certain medical providers, any hospital licensed under ch. 395, F.S., and any laboratory licensed under ch. 483, F.S., to report to the DOH the diagnosis or suspicion of a disease of public health importance.<sup>13</sup> The DOH is required to periodically issue a list of infectious and noninfectious diseases which it determines to be a threat to public health

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<sup>7</sup> Section 828.055(2), F.S.

<sup>8</sup> Section 828.055(1), F.S.; *see also* ch. 64B16-29, F.A.C.

<sup>9</sup> Chapter 64B16-29.002(1)(a) and (b), F.A.C.

<sup>10</sup> Section 499.03(1), F.S.

<sup>11</sup> Section 828.058(4)(a), F.S.

<sup>12</sup> Section 828.05(3), F.S.

<sup>13</sup> Section 381.0031(1), F.S.

and therefore of public health importance.<sup>14</sup> The current list of diseases or conditions to be reported includes, but is not limited to:<sup>15</sup>

- Acquired Immune Deficiency Syndrome (AIDS);
- Amebic Encephalitis;
- Botulism;
- Chlamydia;
- Cholera;
- Diphtheria;
- Gonorrhea;
- Hepatitis A, B, C, D, E and G;
- Human Immunodeficiency Virus (HIV);
- Influenza;
- Lyme disease;
- Meningitis;
- Mumps;
- Plague;
- Rabies;
- Smallpox;
- Syphilis;
- Tuberculosis;
- Typhoid fever;
- Viral hemorrhagic fevers;
- West Nile virus; and
- Yellow fever.

The diseases or conditions listed in the rule must be reported by telephone, facsimile, electronic data transfer, or other confidential means of communication to the County Health Department having jurisdiction for the area in which the disease or condition is found and within the time period specified by rule.<sup>16</sup> Persons required to report the diseases are not prohibited from reporting other diseases not included on the list.<sup>17</sup> Additional rules provide for written reports to be issued by practitioners, laboratories, medical facilities, and other persons following the initial reporting of a disease or condition of public health significance.<sup>18</sup>

The following persons are required to report suspected rabies exposure to humans, as well as conditions that are diagnosed or suspected in animals, pursuant to ch. 64D-3.039(2), F.A.C.:<sup>19</sup>

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<sup>14</sup> Section 381.0031(2), F.S.

<sup>15</sup> The complete list of diseases or conditions to be reported is codified at Rule 64D-3.029(3), F.A.C.

<sup>16</sup> Chapter 64D-3.029(1), F.A.C.; the time period for reporting varies according to the severity of the threat to public health posed by the identified disease or condition.

<sup>17</sup> *Id.*

<sup>18</sup> Chapter 64D-3.030, F.A.C. (notification by practitioners); ch. 64D-3.031, F.A.C. (notification by laboratories); ch. 64D-3.032, F.A.C. (notification by medical facilities); and ch. 64D-3.033, F.A.C. (notification by others).

<sup>19</sup> The rule provides that “[a]ny grouping or clustering of animals having similar diseases, symptoms or syndromes that may indicate the presence of a threat to humans including those for biological agents associated with terrorism shall be reported.”

- Animal control officers operating under s. 828.27, F.S.;
- Employees or agents of a public or private agency, animal shelter, or other facility that is operated for the collection and care of stray, neglected, abandoned, or unwanted animals;
- Animal disease laboratories licensed under s. 585.61, F.S.;
- Wildlife officers operating under s. 372.07, F.S.;
- Wildlife rehabilitators permitted by the Fish and Wildlife Conservation Commission; and
- Florida state park personnel operating under s. 258.007, F.S.<sup>20</sup>

### III. Effect of Proposed Changes:

The CS requires an animal control officer (operating under s. 828.27, F.S.), a wildlife officer (operating under s. 379.3311, F.S.), and an animal disease diagnostic laboratory (operating under s. 585.61, F.S.) to report knowledge of any animal bite, any diagnosis or suspicion of a grouping or clustering of animals having similar disease, or any symptom or syndrome that may indicate the presence of a threat to humans.<sup>21</sup>

The CS expands the list of controlled substances and legend drugs that can be used for the purpose of euthanasia or immobilization of animals to include:

- Tiletamine hydrochloride, alone or in combination with zolazepam (Telazol®);
- Xylazine (Rompun®);
- Ketamine;
- Acepromazine maleate (Atravet®);
- Acetylpromazine (Acezine 2);
- Etorphine (Imobilon®); and
- Yohimbine hydrochloride, alone or combined with Atipamezole (Antisedan®).

At the request and recommendation of the Board of Veterinary Medicine, the Board of Pharmacy may adopt a rule to increase the number of controlled substances and legend drugs available to euthanize injured, sick, or abandoned domestic animals or to chemically immobilize such animals upon a finding that such additions are necessary for the humane and lawful treatment of those animals.

Any county or municipal animal control agency or any humane society registered with the Secretary of State may apply to the Department of Health, not the Department of Business and Professional Regulation, for a permit to purchase, possess, and use the drugs listed above. The CS provides that the possession and use of these drugs is limited to those employees or agents of the permittee certified in accordance with s. 828.058, F.S.,<sup>22</sup> or s. 828.27, F.S.,<sup>23</sup> while operating

<sup>20</sup> Chapter 64D-3.033(1), F.A.C.

<sup>21</sup> This provision is consistent with Rule 64D-3.033, F.A.C., which currently requires animal control officers, animal disease laboratories, and wildlife officers to report suspected rabies exposure to humans and conditions that they diagnose or suspect in any grouping or clustering of animals having similar diseases, symptoms, or syndromes that may indicate the presence of a threat to humans, including those for biological agents associated with terrorism.

<sup>22</sup> Section 828.058(4)(a), F.S., refers to licensed veterinarians or employees or agents of a private or public agency, animal shelter, or other facility that is operated for the collection and care of stray, neglected, abandoned, or unwanted animals, provided the employee or agent has successfully completed a 16-hour euthanasia technicians certification course.

in the scope of their employment or official duties with the permittee. The Board of Pharmacy may revoke or suspend the permit upon a determination that the permittee is using any of these drugs for any purpose other than that set forth in s. 828.055, F.S., or if the permittee fails to follow the rules of the board regarding proper storage and handling.

The CS provides the DOH and the Board of Pharmacy with the power and rulemaking authority to deny a permit, or suspend, fine, or otherwise discipline an applicant for a permit or a permittee for failure to maintain certain standards or violation of certain statutes.<sup>24</sup> For example, use of prescription drugs listed in the CS for a purpose other than the purposes allowed in the CS, failure to take reasonable precautions against theft, loss or diversion of the drugs listed in the CS, and failure to notice or report to the DOH a significant loss, theft, or inventory shortage are grounds upon which denial of an application for the permit, suspension, revocation, or refusal to renew a permit may be based. The Board of Pharmacy can only take disciplinary action for a substantial violation of this section and the adopted rules. The board is required to consider the severity of the violation, the actions taken to remedy the violation, the timeframe for the remedial actions, and any previous violations.

The CS gives the DOH the power to immediately suspend a permit by emergency order upon a determination that a permittee poses a threat to the public health, safety, or welfare.

The CS provides that a lethal solution of an agent approved by the Board of Veterinary Medicine to euthanize an animal must be used in the following order of preference:

- Intravenous injection by hypodermic needle;
- Intraperitoneal injection by hypodermic needle; or
- If the dog or cat is unconscious with no corneal reflex,<sup>25</sup> intracardial injection by hypodermic needle.

Lastly, the CS deletes the authority to euthanize an animal through a solution or powder added to the animal's food.

The CS becomes effective July 1, 2012.

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<sup>23</sup> Section 828.27(1)(b), F.S., defines "animal control officer" as any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions related to animal control or cruelty and to issue citations. Such officer may carry a device to chemically subdue and tranquilize an animal, provided that such officer has successfully completed a minimum of 16 hours of training in marksmanship, equipment handling, safety and animal care, and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association.

<sup>24</sup> Chapters 465 and 499, F.S., and adopted rules.

<sup>25</sup> Cornea reflex is tested by touching the cornea with a sterile object (a drop of water or saline can be used) and noting whether the animal blinks and withdraws the eye into the orbit. See [http://ruralareavet.org/PDF/Anesthesia-Patient\\_Monitoring.pdf](http://ruralareavet.org/PDF/Anesthesia-Patient_Monitoring.pdf) (Last visited January 31, 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 CS allows all animal control agencies to use the same permit used to obtain drugs for euthanasia to obtain drugs for chemical immobilization without paying additional fees. In addition, animal control agencies will not be required to contract with veterinarians to obtain certain controlled substances for chemical immobilization. As a result, the CS may result in savings to certain animal control agencies.

## C. Government Sector Impact:

The Department of Health expects to incur non-recurring costs for rulemaking as required by the CS which can be absorbed with the current budget authority.

**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.)

**CS by Regulated Industries Committee on February 2, 2012:**

The CS clarifies that the Department of Health, not the Department of Business and Professional Regulation, is responsible for issuing permits for the euthanasia and immobilization drugs references in the CS.

The CS provides the DOH and the Board of Pharmacy with the power and rulemaking authority to deny a permit, or suspend, fine, or otherwise discipline an applicant for a permit or a permittee for failure to maintain certain standards or violation of certain statutes. For example, use of prescription drugs listed in the CS for a purpose other than the purposes allowed in the CS, failure to take reasonable precautions against theft, loss or diversion of the drugs listed in the CS, and failure to notice or report to the DOH a significant loss, theft, or inventory shortage are grounds upon which denial of an application for the permit, suspension, revocation, or refusal to renew a permit may be based. The CS gives the DOH the power to immediately suspend a permit by emergency order upon a determination that a permittee poses a threat to the public health, safety, or welfare.

The CS conforms the language to be identical to CS/HB 479.

**B. Amendments:**

None.



520502

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/05/2012 | . |       |
|            | . |       |
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|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 381.0031, Florida Statutes, is amended  
to read:

381.0031 Report of diseases of public health significance  
to department.—

(1) A ~~Any~~ practitioner licensed in this state to practice  
medicine, osteopathic medicine, chiropractic medicine,  
naturopathy, or veterinary medicine; any hospital licensed under  
part I of chapter 395; or any laboratory licensed under chapter



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13 483 that diagnoses or suspects the existence of a disease of  
14 public health significance shall immediately report the fact to  
15 the Department of Health.

16 (2) An animal control officer operating under s. 828.27, a  
17 wildlife officer operating under s. 379.3311, or an animal  
18 disease laboratory operating under s. 585.61 shall report  
19 knowledge of any animal bite, diagnosis of disease in an animal,  
20 or suspicion of a grouping or clustering of animals having  
21 similar disease, symptoms, or syndromes that may indicate the  
22 presence of a threat to humans.

23 (3)~~(2)~~ ~~Periodically~~ The department shall periodically issue  
24 a list of infectious or noninfectious diseases determined by it  
25 to be a threat to public health and therefore of significance to  
26 public health and shall furnish a copy of the list to the  
27 practitioners listed in subsection (1).

28 (4)~~(3)~~ Reports required by this section must be in  
29 accordance with methods specified by rule of the department.

30 (5)~~(4)~~ Information submitted in reports required by this  
31 section is confidential, exempt from the provisions of s.  
32 119.07(1), and is to be made public only when necessary to  
33 public health. A report so submitted is not a violation of the  
34 confidential relationship between practitioner and patient.

35 (6)~~(5)~~ The department may obtain and inspect copies of  
36 medical records, records of laboratory tests, and other medical-  
37 related information for reported cases of diseases of public  
38 health significance described in subsection (3) ~~(2)~~. The  
39 department shall examine the records of a person who has a  
40 disease of public health significance only for purposes of  
41 preventing and eliminating outbreaks of disease and making



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42 epidemiological investigations of reported cases of diseases of  
43 public health significance, notwithstanding any other law to the  
44 contrary. Health care practitioners, licensed health care  
45 facilities, and laboratories shall allow the department to  
46 inspect and obtain copies of such medical records and medical-  
47 related information, notwithstanding any other law to the  
48 contrary. Release of medical records and medical-related  
49 information to the department by a health care practitioner,  
50 licensed health care facility, or laboratory, or by an  
51 authorized employee or agent thereof, does not constitute a  
52 violation of the confidentiality of patient records. A health  
53 care practitioner, health care facility, or laboratory, or any  
54 employee or agent thereof, may not be held liable in any manner  
55 for damages and is not subject to criminal penalties for  
56 providing patient records to the department as authorized by  
57 this section.

58 (7)~~(6)~~ The department may adopt rules related to reporting  
59 diseases of significance to public health, which must specify  
60 the information to be included in the report, who is required to  
61 report, the method and time period for reporting, requirements  
62 for enforcement, and required followup activities by the  
63 department which are necessary to protect public health.

64 (8) This section does not affect s. 384.25.

65 Section 2. Section 828.055, Florida Statutes, is amended to  
66 read:

67 828.055 Controlled substances and legend drugs ~~Sodium~~  
68 ~~pentobarbital~~; permits for use ~~in euthanasia of domestic~~  
69 ~~animals.~~-

70 (1) The Board of Pharmacy shall adopt rules providing for



520502

71 the issuance of permits authorizing the purchase, possession,  
72 and use of sodium pentobarbital, ~~and~~ sodium pentobarbital with  
73 lidocaine, tiletamine hydrochloride, alone or combined with  
74 zolazepam (including Telazol), xylazine (including Rompun),  
75 ketamine, acepromazine maleate (also acetylpromazine, and  
76 including Atravet or Acezine), alone or combined with etorphine  
77 (including Immobilon), and yohimbine hydrochloride, alone or  
78 combined with atipamezole (including Antisedan) by county or  
79 municipal animal control agencies or humane societies registered  
80 with the Secretary of State for the purpose of euthanizing  
81 injured, sick, or abandoned domestic animals which are in their  
82 lawful possession or for the chemical immobilization of animals.  
83 The rules shall set forth guidelines for the proper storage and  
84 handling of these prescription drugs ~~sodium pentobarbital and~~  
85 ~~sodium pentobarbital with lidocaine~~ and such other provisions as  
86 may be necessary to ensure that the drugs are used solely for  
87 the purpose set forth in this section. The rules shall also  
88 provide for an application fee not to exceed \$50 and a biennial  
89 renewal fee not to exceed \$50. Upon formal, written request and  
90 recommendation adopted in a public meeting by the Board of  
91 Veterinary Medicine, the Board of Pharmacy may, by rule, add  
92 controlled substances and legend drugs to the list of  
93 prescription drugs in this subsection upon a finding that such  
94 additions are necessary for the humane and lawful euthanasia of  
95 injured, sick, or abandoned domestic animals or chemical  
96 immobilization of animals.

97 (2) Any county or municipal animal control agency or any  
98 humane society registered with the Secretary of State may apply  
99 to the Department of Health ~~Business and Professional Regulation~~



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100 for a permit to purchase, possess, and use the prescription  
101 drugs authorized under ~~sodium pentobarbital or sodium~~  
102 ~~pentobarbital with lidocaine pursuant to~~ subsection (1). Upon  
103 certification by the Board of Pharmacy that the applicant meets  
104 the qualifications set forth in the rules, the Department of  
105 Health shall issue the permit. The possession and use of the  
106 prescription drugs authorized under subsection (1) is limited to  
107 those employees or agents of the permittee certified in  
108 accordance with s. 828.058 or s. 828.27 while operating in the  
109 scope of their respective official or employment duties with the  
110 permittee.

111 (3) The department or the board may deny a permit, and  
112 revoke, ~~or~~ suspend, or refuse to renew the permit of any  
113 permittee, and may fine, place on probation, or otherwise  
114 discipline any permittee, upon a determination that:

115 (a) The applicant or permittee or any of its employees or  
116 agents is using or has used a prescription drug authorized under  
117 subsection (1) ~~sodium pentobarbital or sodium pentobarbital with~~  
118 ~~lidocaine~~ for any purpose other than that set forth in this  
119 section; ~~or if the permittee fails to follow the rules of the~~  
120 ~~board regarding proper storage and handling.~~

121 (b) The applicant or permittee has failed to take  
122 reasonable precautions against misuse, theft, loss, or diversion  
123 of such prescription drugs;

124 (c) The applicant or permittee has failed to detect or to  
125 report to the Department of Health a significant loss, theft, or  
126 inventory shortage of such prescription drugs;

127 (d) The applicant or permittee has failed to follow the  
128 rules of the Board of Pharmacy regarding proper storage and



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129 handling of such prescription drugs; or  
130 (e) The permittee has violated this section, chapter 465,  
131 chapter 499, or any rule adopted under those chapters.  
132 (4) The board shall adopt rules implementing subsection  
133 (3), provided that disciplinary action may be taken only for a  
134 substantial violation of this section or the rules adopted under  
135 this section. In determining the severity of an administrative  
136 penalty to be assessed under this section, the Department or the  
137 Board of Pharmacy shall consider:  
138 (a) The severity of the violation;  
139 (b) Any actions taken by the person to correct the  
140 violation or to remedy complaints, and the timing of those  
141 actions; and  
142 (c) Any previous violations.  
143 (5) The Department of Health may issue an emergency order  
144 immediately suspending a permit issued under this section upon a  
145 determination that a permittee, as a result of a violation of  
146 this section or any rule adopted under this section, presents a  
147 danger to the public health, safety, and welfare.  
148 (6) This section does not apply to licensed pharmacies,  
149 veterinarians, or health care practitioners operating within the  
150 scope of the applicable professional act.  
151 Section 3. Subsection (1) of section 828.058, Florida  
152 Statutes, is amended to read:  
153 828.058 Euthanasia of dogs and cats.—  
154 (1) Sodium pentobarbital, a sodium pentobarbital  
155 derivative, or other agent the Board of Veterinary Medicine may  
156 approve by rule shall be the only methods used for euthanasia of  
157 dogs and cats by public or private agencies, animal shelters, or



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158 other facilities which are operated for the collection and care  
159 of stray, neglected, abandoned, or unwanted animals. A lethal  
160 solution shall be used in the following order of preference:

- 161 (a) Intravenous injection by hypodermic needle;
- 162 (b) Intraperitoneal injection by hypodermic needle; or
- 163 (c) If the dog or cat is unconscious with no corneal  
164 reflex, intracardial injection by hypodermic needle; ~~or~~  
165 ~~(d) Solution or powder added to feed.~~

166 Section 4. This act shall take effect July 1, 2012.

167  
168 ===== T I T L E A M E N D M E N T =====

169 And the title is amended as follows:

170 Delete everything before the enacting clause  
171 and insert:

172 A bill to be entitled  
173 An act relating to animal control; amending s.  
174 381.0031, F.S.; requiring animal control officers,  
175 wildlife officers, and disease laboratories to report  
176 potential health risks to humans from animals;  
177 amending s. 828.055, F.S.; providing for use of  
178 additional prescription drugs for euthanasia and  
179 chemical immobilization of animals; providing for  
180 rulemaking to expand the list of additional  
181 prescription drugs; providing that the Board of  
182 Pharmacy or the Department of Health may revoke or  
183 suspend a permit upon a determination that the  
184 permittee or its employees or agents is using or has  
185 used an authorized drug for other purposes or if a  
186 permittee has committed specified violations; amending



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187 s. 828.058, F.S.; restricting the use of intracardial  
188 injection for euthanizing animals; prohibiting the  
189 delivery of a lethal solution or powder by adding it  
190 to food; providing an effective date.

By Senator Hays

20-00555-12

2012654\_\_

A bill to be entitled

An act relating to euthanasia of domestic animals; amending s. 828.055, F.S.; requiring that the Board of Pharmacy adopt rules relating to the issuance of permits authorizing the purchase, possession, and use of certain controlled substances and legend drugs necessary for the euthanasia and chemical immobilization of animals; authorizing the Board of Pharmacy, at the request of the Board of Veterinary Medicine, to adopt a rule to increase the number of controlled substances and legend drugs available to euthanize injured, sick, or abandoned domestic animals or to chemically immobilize such animals; providing that only certain persons are authorized to possess and use such drugs while operating in the scope of their employment or official duties; amending s. 828.058, F.S.; restricting the use of intracardial injection to an unconscious animal; prohibiting the delivery of a lethal solution or powder by adding it to food; amending s. 381.0031, F.S.; requiring that an animal control officer, a wildlife officer, and an animal disease diagnostic laboratory report knowledge of any animal bite, any diagnosis or suspicion of a grouping or clustering of animals having similar disease, or any symptom or syndrome that may indicate the presence of a threat to humans; providing an effective date.

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

Page 1 of 6

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

20-00555-12

2012654\_\_

Section 1. Section 828.055, Florida Statutes, is amended to read:

828.055 Controlled substances and legend drugs ~~Sodium pentobarbital~~; permits for use in euthanasia of ~~domestic~~ animals.—

(1) The Board of Pharmacy shall adopt rules providing for the issuance of permits authorizing the purchase, possession, and use of controlled substances and legend drugs, including ~~of~~ sodium pentobarbital and sodium pentobarbital with lidocaine tiletamine hydrochloride, alone or combined with zolazepam (including Telazol), xylazine (including Rompun), ketamine, acepromazine maleate (also acetylpromazine, and including Atravet or Acezine 2), alone or combined with etorphine (including Imobilon), yohimbine hydrochloride, alone or combined with atipamezole (including Antisedan), by county or municipal animal control agencies or humane societies registered with the Secretary of State for the purpose of euthanizing injured, sick, or abandoned domestic animals ~~that which~~ are in their lawful possession or for the purpose of chemically immobilizing the animals. The rules shall set ~~forth~~ guidelines for the proper storage and handling of these drugs sodium pentobarbital and sodium pentobarbital with lidocaine and such other provisions as may be necessary to ensure that the drugs are used solely for the purpose set forth in this section. The rules shall also provide for an application fee not to exceed \$50 and a biennial renewal fee not to exceed \$50. At the request and recommendation of the Board of Veterinary Medicine, the Board of Pharmacy may adopt a rule to increase the number of controlled substances and

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20-00555-12

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59 legend drugs available to euthanize injured, sick, or abandoned  
 60 domestic animals or to chemically immobilize such animals upon a  
 61 finding that such additions are necessary for the humane and  
 62 lawful treatment of those animals.

63 (2) Any county or municipal animal control agency or any  
 64 humane society registered with the Secretary of State may apply  
 65 to the Department of Business and Professional Regulation for a  
 66 permit to purchase, possess, and use these drugs sodium  
 67 pentobarbital or sodium pentobarbital with lidocaine pursuant to  
 68 subsection (1). Upon certification by the board that the  
 69 applicant meets the qualifications set forth in the rules, the  
 70 department shall issue the permit. The possession and use of  
 71 these drugs is limited to those employees or agents of the  
 72 permittee certified in accordance with s. 828.058 and or s.  
 73 828.27 while operating in the scope of their employment or  
 74 official duties with the permittee.

75 (3) The board may revoke or suspend the permit upon a  
 76 determination that the permittee is using any of these drugs  
 77 sodium pentobarbital or sodium pentobarbital with lidocaine for  
 78 any purpose other than that set forth in this section or if the  
 79 permittee fails to follow the rules of the board regarding  
 80 proper storage and handling.

81 Section 2. Subsection (1) of section 828.058, Florida  
 82 Statutes, is amended to read:

83 828.058 Euthanasia of dogs and cats.—

84 (1) Sodium pentobarbital, a sodium pentobarbital  
 85 derivative, or other agent that the Board of Veterinary Medicine  
 86 may approve by rule shall be the only methods used for  
 87 euthanasia of dogs and cats by public or private agencies,

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2012654

88 animal shelters, or other facilities that operate ~~which are~~  
 89 ~~operated~~ for the collection and care of stray, neglected,  
 90 abandoned, or unwanted animals. A lethal solution shall be used  
 91 in the following order of preference:

92 (a) Intravenous injection by hypodermic needle;

93 (b) Intraperitoneal injection by hypodermic needle; or

94 (c) If the dog or cat is unconscious with no corneal  
 95 reflex, intracardial injection by hypodermic needle, ~~or~~

96 ~~(d) Solution or powder added to food.~~

97 Section 3. Section 381.0031, Florida Statutes, is amended  
 98 to read:

99 381.0031 Public health surveillance and investigation  
 100 ~~Report of diseases of public health significance to department.—~~

101 (1) Any practitioner licensed in this state to practice  
 102 medicine, osteopathic medicine, chiropractic medicine,  
 103 naturopathy, or veterinary medicine; any hospital licensed under  
 104 part I of chapter 395; or any laboratory licensed under chapter  
 105 483 which ~~that~~ diagnoses or suspects the existence of a disease  
 106 of public health significance shall immediately report the fact  
 107 to the Department of Health.

108 (2) Periodically the department shall issue a list of  
 109 infectious or noninfectious diseases that the department  
 110 determines ~~determined by it~~ to be a threat to public health and  
 111 therefore of significance to public health and shall furnish a  
 112 copy of the list to the practitioners listed in subsection (1).

113 (3) Reports required by this section must be in accordance  
 114 with methods specified by rule of the department.

115 (4) Information submitted in reports required by this  
 116 section is confidential, exempt from the provisions of s.

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20-00555-12 2012654

117 119.07(1), and is to be made public only when necessary to  
 118 public health. A report so submitted is not a violation of the  
 119 confidential relationship between practitioner and patient.

120 (5) The department may obtain and inspect copies of medical  
 121 records, records of laboratory tests, and other medical-related  
 122 information for reported cases of diseases of public health  
 123 significance described in subsection (2). The department shall  
 124 examine the records of a person who has a disease of public  
 125 health significance only for purposes of preventing and  
 126 eliminating outbreaks of disease and making epidemiological  
 127 investigations of reported cases of diseases of public health  
 128 significance, notwithstanding any other law to the contrary.  
 129 Health care practitioners, licensed health care facilities, and  
 130 laboratories shall allow the department to inspect and obtain  
 131 copies of such medical records and medical-related information,  
 132 notwithstanding any other law to the contrary. Release of  
 133 medical records and medical-related information to the  
 134 department by a health care practitioner, licensed health care  
 135 facility, or laboratory, or by an authorized employee or agent  
 136 thereof, does not constitute a violation of the confidentiality  
 137 of patient records. A health care practitioner, health care  
 138 facility, or laboratory, or any employee or agent thereof, may  
 139 not be held liable in any manner for damages and is not subject  
 140 to criminal penalties for providing patient records to the  
 141 department as authorized by this section.

142 (6) An animal control officer operating under s. 828.27, a  
 143 wildlife officer operating under s. 379.3311, and an animal  
 144 disease diagnostic laboratory operating under s. 585.61 shall  
 145 report knowledge of any animal bite, any diagnosis or suspicion

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20-00555-12 2012654

146 of a grouping or clustering of animals having similar disease,  
 147 or any symptom or syndrome that may indicate the presence of a  
 148 threat to humans.

149 ~~(7)(6)~~ The department may adopt rules related to reporting  
 150 diseases of significance to public health, which must specify  
 151 the information to be included in the report, who is required to  
 152 report, the method and time period for reporting, requirements  
 153 for enforcement, and required followup activities by the  
 154 department which are necessary to protect public health.

155  
 156 This section does not affect s. 384.25.

157 Section 4. This act shall take effect July 1, 2012.

Page 6 of 6

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR D. ALAN HAYS**  
20th District

**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,

A handwritten signature in cursive script that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD  
State Senator, District 20

CC: Booter Imhof, Staff Director

**REPLY TO:**

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://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)

Meeting Date \_\_\_\_\_

Topic Homan Euthanasia

Bill Number 654  
*(if applicable)*

Name Laura Bevan

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
*Street*

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Homan Society of the United States

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)

2/2/12

Meeting Date

Topic Homan Euthanasia

Bill Number 654  
*(if applicable)*

Name Kate MacFall

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
*Street*

Phone 508-1001

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail KMacFall@connecticut.net

Speaking:  For  Against  Information

Representing Animal Shelter Foundation

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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/2/12

Meeting Date

Topic \_\_\_\_\_

Bill Number SB 654  
*(if applicable)*

Name Vivian Sharton-Gotkin

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Florida Resident/Taxpayer

Address 2113 Queenswood Dr  
*Street*  
Tallahassee FL 32303  
*City State Zip*

Phone 850 228 6870

E-mail shargot@vivian8r.com

Speaking:  For  Against  Information

Representing self

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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/2/12

Meeting Date

Topic \_\_\_\_\_

Bill Number SB 654  
*(if applicable)*

Name AVONIA R TALBOT

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Rehab Counselor

Address 593 Champion Oak Circle

Phone 850-539-6403

Street

HAVANA

FL

32333

City

State

Zip

E-mail AVONIA.TALBOT@mchs1.com

Speaking:  For  Against  Information

Representing Self

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)

2/2/12

Meeting Date

Topic \_\_\_\_\_

Bill Number 654  
*(if applicable)*

Name Diana Ferguson

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Attorney

Address 19 S Monroe St Ste 202

Phone 850-681-6788

Street

Talco

City

FL

State

32301

Zip

E-mail dferguson@rephlaw.com

Speaking:  For  Against  Information

Representing FL Animal Control 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 986

INTRODUCER: Senator Altman and others

SUBJECT: Slot machines and slot machine components

DATE: January 30, 2012      REVISED: \_\_\_\_\_

|    | ANALYST    | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|------------|----------------|-----------|--------------------|
| 1. | Harrington | Imhof          | RI        | <b>Pre-meeting</b> |
| 2. | _____      | _____          | BC        | _____              |
| 3. | _____      | _____          | RC        | _____              |
| 4. | _____      | _____          | _____     | _____              |
| 5. | _____      | _____          | _____     | _____              |
| 6. | _____      | _____          | _____     | _____              |

**I. Summary:**

The bill clarifies that the Division of Pari-mutuel Wagering (division) has authority to adopt rules regarding slot machines including all components, hardware, and software. The bill amends the rulemaking authority for the division to add specific rule authority regarding specifications of the required internal components of a slot machine, including the location, configuration, and function of the components, as well as the operating requirements for slot machine hardware and software. The bill provides that the division shall have rulemaking authority over the procedures and specifications for slot machines to ensure the random probabilities of winning plays and the specifications for the operation of the random-number generator of each slot machine.

The bill prohibits a slot machine’s random number generator from serving more than one station or terminal where a player places wagers. In addition, the bill clarifies that slot machines may be linked to other slot machines within the facility of a slot machine licensee for progressive jackpot payouts. Currently, the bill includes a scrivener’s error to prevent progressive systems.

This bill substantially amends the following sections of the Florida Statutes: 551.103, 551.104, and 551.121.

**II. Present Situation:**

**The Division of Pari-mutuel Wagering**

The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation provides regulatory oversight to pari-mutuel wagering activities, cardrooms located at pari-mutuel facilities, and slot machines located at pari-mutuel facilities located in Miami-

Dade and Broward Counties. The mission of the division is the efficient, effective and fair regulation of authorized gaming at pari-mutuel facilities in Florida.<sup>1</sup>

The division's primary responsibilities include:

- Ensuring that races and games are conducted fairly and accurately;
- Ensuring the safety and welfare of racing animals;
- Collecting state revenue accurately and timely;
- Issuing occupational and permitholder operating licenses;
- Regulating pari-mutuel, cardroom, and slot machine operations;
- Ensuring that permitholders, licensees, and businesses related to the industries comply with state law; and
- Serving as the State Compliance Agency for the Compact between the Seminole Tribe of Florida and the State of Florida.

The division provides oversight to:

- 35 permitholders operating at 29 facilities:
  - 16 Greyhound
  - 3 Thoroughbred
  - 1 Harness
  - 6 Jai-Alai
  - 1 track offering limited intertrack wagering and horse sales
  - 2 Quarter Horse
- 24 Cardrooms operating at pari-mutuel facilities
- 6 Slot facilities located in Broward and Miami-Dade County pari-mutuel facilities.

### **Slot Machine Gaming**

During the 2004 General Election, the electors approved Amendment 4 to the Florida Constitution, codified as s. 23, Art. X, Florida Constitution, which authorized slot machines at existing pari-mutuel facilities in Miami-Dade and Broward Counties upon an affirmative vote of the electors in those counties. Both Miami-Dade and Broward Counties held referenda elections on March 8, 2005. The electors approved slot machines at the pari-mutuel facilities in Broward County, but the measure was defeated in Miami-Dade County. On January 29, 2008, another referendum was held under the provisions of Amendment 4, in which the slot machines in Miami-Dade County were approved. Under the provisions of the amendment, seven pari-mutuel facilities are eligible to conduct slot machine gaming. Of the seven, six are operating slot machines.<sup>2</sup>

In addition to the seven locations authorized for slot machines under the Florida Constitution, on July 1, 2010, a statutory amendment expanded the locations that were authorized slot machine gaming to include pari-mutuel facilities located in a charter county or a county that has a referendum approving slots where the referendum was held pursuant to a statutory or

---

<sup>1</sup> <http://www.myflorida.com/dbpr/pmw/index.html> (last visited January 23, 2012).

<sup>2</sup> The Isle Casino and Racing at Pompano Park, Mardi Gras Racetrack and Gaming Center, Gulfstream Park, Calder/Tropical Park Racetrack, Flagler Dog Track and Magic City, and Miami/Summer Jai Alai are currently operating slot machines.

constitutional authorization after the effective date of the amendment. The facility must have conducted live racing for two calendar years preceding its application and must comply with other requirements for slot machine licensure.<sup>3</sup> Currently, only existing pari-mutuel facilities in Miami-Dade County qualify for slot machine authorization. Under the statutory provision, one additional facility became eligible for slot machine gaming, Hialeah Park (a quarter horse facility).<sup>4</sup> Hialeah Park has been granted a license to conduct slot machine gaming but is not currently operating slot machine gaming.

In order to conduct slot machine gaming, the slot machine applicant and licensee must conduct a full schedule of live racing.<sup>5</sup> Slot machine licensees may make available for play up to 2,000 slot machines within the property of the facilities of the slot machine licensee.<sup>6</sup> Slot machine licensees are required to pay an annual licensure fee of \$2 million.<sup>7</sup>

In addition to the license fees, the tax rate on slot machine revenues at each facility is 35 percent.<sup>8</sup> If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade counties is less than the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine licensee shall pay to the state within 45 days after the end of the state fiscal year a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year.<sup>9</sup>

### **Rulemaking Authority**

Section 551.103, F.S., provides that the division shall adopt all rules necessary to implement, administer, and regulate slot machine gaming. Such rules must, in pertinent part, include:

- Procedures for applying for a slot machine license and renewal of a slot machine license;
- Technical requirements and the qualifications contained in this chapter that are necessary to receive a slot machine license or slot machine occupational license;
- Procedures to scientifically test and technically evaluate slot machines for compliance with [ch. 550, F.S.];

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<sup>3</sup> See, ch. 2010-29, L.O.F. and s 551.102(4), F.S.

<sup>4</sup> Currently the provision is being challenged as violating s. 23, Art. X, Florida Constitution. The trial court upheld the constitutionality in Leon County. That decision was upheld by the First District Court of Appeal. See consolidated cases, *Calder Race Course, Inc. v. Department of Business and Professional Regulation and South Florida Racing Association*, 1D11-130 (Fla. 1<sup>st</sup> DCA) and *Florida Gaming Centers, Inc. v. Department of Business and Professional Regulation and South Florida Racing Association*, 1D10-6780 (Fla. 1<sup>st</sup> DCA). The case has been appealed to the Florida Supreme Court. See *Florida Gaming Centers, Inc. v. Florida Department of Business and Professional Regulation, et al*, SC11-2182 (Fla.)

<sup>5</sup> Section 551.104(4)(c), F.S.

<sup>6</sup> Section 551.114(1), F.S.

<sup>7</sup> Section 551.106(1), F.S. Prior to the effective date of ch. 2010-29, L.O.F., the license fee was \$3 million.

<sup>8</sup> Section 551.106(1), F.S. Prior to the effective date of ch. 2010-29, L.O.F., the tax rate was 50 percent.

<sup>9</sup> Section 551.106(2), F.S. The 2008-2009 tax paid on slot machine revenue was \$103,895,349. It does not appear that this provision will be triggered because of the additional facilities beginning slot operations. Calder began slot operations in January 2010 and Flagler began operations in October 2009. During fiscal year 2009-2010, the tax paid on slot machine revenues was \$138,125,105. In 2010-2011, after the tax rate was reduced, the tax paid on slot machine revenues exceeded \$125 million. Miami Jai Alai began slot operations in January 2012. Dania Jai Alai and Hialeah Park have not begun slot operations.

- Procedures relating to slot machine revenues, including verifying and accounting for such revenues, auditing, and collecting taxes and fees;
- Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to slot machine gaming that allow the division and the Department of Law Enforcement to audit the operation, financial data, and program information of a slot machine licensee, and provide the division and the Department of Law Enforcement with the ability to monitor, at any time on a real-time basis, wagering patterns, payouts, tax collection, and compliance with any rules;
- Procedures for requiring each licensee at his or her own cost and expense to supply the division with a bond having the penal sum of \$2 million;
- Procedures for requiring licensees to maintain specified records and submit any data, information, record, or report, including financial and income records necessary to the proper implementation and enforcement of [ch. 550, F.S.];
- A requirement that the payout percentage of a slot machine be no less than 85 percent;
- Minimum standards for security of the facilities, including floor plans, security cameras, and other security equipment; and
- Procedures for requiring slot machine licensees to implement and establish a drug-testing program for all slot machine occupational licensees.

### **Division of Administrative Hearing**

On July 5, 2006, the division adopted Rule 61D-14.041, F.A.C., as part of its original slot machine regulations. This rule established a requirement that a slot machine have an internal random number generator, as well as establishing criteria for the operation of the random number generator. According to the division, a random number generator is a vital slot machine component that produces the random outcomes used in modern slot machines to determine whether a play is a win or a loss. Once the random number generator has determined whether the play is a win or loss, the slot machine's programming displays the outcome to the player through spinning wheels or video displays.

On February 28, 2011, a Rule Challenge Petition was filed with the Division of Administrative Hearings (DOAH) by Interblock USA, LLC (Interblock).<sup>10</sup> Interblock manufactures gambling machines that play automated table games such as roulette and craps with physical wheels or dice, instead of using all electronic images. A single random number generator, external to the player stations, can operate the results for multiple player stations. The results of those games are shared by multiple players at separate terminals. The petition challenged the division's authority to adopt a rule that required a slot machine to have a random number generator.

On March 11, 2011, Shuffle Master, Inc., which manufactures a variety of gaming devices, including slot machines, intervened in the case.<sup>11</sup> Shuffle Master, like Interblock, manufactures electronic games that play table games such as roulette and craps through the use of a random number generator and video presentation of results. The results of those games are shared by multiple players at separate terminals.

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<sup>10</sup> A copy of the Petition can be viewed at: <http://www.doah.state.fl.us/DocDoc/2011/001075/11001075M-030111-09265926.PDF> (Last viewed January 30, 2012).

<sup>11</sup> A copy of the Petition to Intervene can be viewed at: <http://www.doah.state.fl.us/DocDoc/2011/001075/11001075PI-031111-12085208.PDF> (Last viewed January 30, 2012).

After a motion hearing on March 18, 2011 regarding Interblock's challenge to the authority of the division's ability to require each slot machine to have a random number generator, Interblock and Shuffle Master filed a stipulation that changed the case to challenge the requirement of Rule 61D-14.041, F.A.C., that the random number generator be "internal" rather than shared by multiple player terminals.<sup>12</sup>

On March 22, 2011, DOAH entered an order in the case finding that the division does not have the authority under ch. 551, F.S., to adopt a rule requiring a slot machine to have an "internal" random number generator.<sup>13</sup> The Final Order was entered on April 7, 2011.<sup>14</sup> On May 6, 2011, the division filed an appeal with the First District Court of Appeal. On January 23, 2012, the First District Court of Appeal affirmed the decision of DOAH.<sup>15</sup>

According to the division, the reasoning applied in this court decision could be applied to the other rules of the division concerning standards for internal components of a slot machine. This could result in machines that are simply automated table games, such as roulette and craps, to be played at licensed slot machine facilities.<sup>16</sup>

### III. Effect of Proposed Changes:

The bill authorizes the Division of Pari-mutuel Wagering to adopt rules related to slot machines, including:

- Procedures to scientifically test and technically evaluate slot machines, including all components, hardware, and software for the machines;
- Specifications of the required internal components for a slot machine, including the location, configuration, and function of the components, as well as the operating requirements for all hardware and software.
- Procedures and specifications for the slot machine to ensure the random probabilities of winning plays; and
- The specifications for the operation of the random-number generator of each slot machine.

<sup>12</sup> A copy of the Joint Stipulation can be viewed at:

[http://www.doah.state.fl.us/DocDoc/2011/001075/11001075\\_0\\_03182011\\_04520644\\_e.pdf](http://www.doah.state.fl.us/DocDoc/2011/001075/11001075_0_03182011_04520644_e.pdf) (Last viewed January 30, 2012).

<sup>13</sup> A copy of the Order can be viewed at: <http://www.doah.state.fl.us/DocDoc/2011/001075/11001075OGEN-032111-08495549.pdf> (Last viewed on January 30, 2012).

<sup>14</sup> A copy of the Final Order can be viewed at: <http://www.doah.state.fl.us/ROS/2011/11001075.pdf> (Last viewed on January 30, 2012).

<sup>15</sup> A copy of the First District Court of Appeal, affirmed, per curiam, can be viewed at:

<http://www.doah.state.fl.us/ROS/2011/11001075%20OPINION.pdf> (Last viewed on January 30, 2012). An opinion that is affirmed per curiam with no written opinion has no precedential value. See *Department of Legal Affairs v. District Court of Appeal, 5<sup>th</sup> Dist.*, 434 So.2d 310 (Fla. 1983). The Supreme Court went on to state that "[a]n affirmance without an opinion is an approval only of the point decided or result reached by the court below, and not of the opinion and the conclusions of law of the lower court, so as to establish a precedent for future action."

<sup>16</sup> Images and videos of the machines can be viewed at Interblock's website, which can be found at:

<http://www.interblock.eu/usa/products/G4/roulette/> (Last viewed January 31, 2012). This website highlights the technology that is available in electronic gaming and illustrates the types of games that may be authorized in the state without statutory oversight of the internal components of slot machines.

The bill amends s. 551.121(5), F.S., to provide that a slot machine's random-number generator may not serve more than one station or terminal where a patron places their wager. According to the division, requiring a single random number generator to operate a single player terminal reduces fraud. In addition, according to the department, this requirement ensures that the statutory limit of 2,000 machines per licensee is complied with. Otherwise, a random number generator could operate more than 10 player stations and could allow a licensee to operate well above the 2,000 machine limit.

The bill clarifies that a slot machine, or the computer operating system linking the slot machine, may be linked by any means to any other slot machines or computer operating system within the facility for progressive jackpot payouts.

The bill provides that a progressive system may not be used in conjunction with slot machines between licensed facilities. Committee staff has been informed that this change was done in error and will be corrected through an amendment.

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

**Other Potential Implications:**

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.<sup>17</sup> The compact specified that if an expansion of gaming occurs, Tribal payments may be reduced or may cease.<sup>18</sup>

This bill attempts to restrict the type of slot machine games that may be conducted in the state. Without this bill, it is possible that multi-station games could be implemented in slot machine facilities that simulate the game of craps and roulette, two games that are currently not authorized anywhere in the state, even at tribal facilities. The Tribe has in the past argued that the state's "expansive definition of slot machines" that allowed for the operation of an electronically simulated blackjack game, which is played on an electronic table operated with an internal random number generator, constituted the authorization of Class III blackjack.<sup>19</sup> Although this argument did not prove successful, it is possible that the Tribe may argue that the use of multi-station slot machines or machines that utilize real dice for craps or real balls on a roulette wheel may constitute an expansion of gaming.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

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<sup>17</sup> *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.

<sup>18</sup> *Id.* See Part XII, Gaming Compact.

<sup>19</sup> See *Memorandum to the National Indian Gaming Commission*, Seminole Tribe of Florida, January 8, 2010. A copy of the memorandum is on file with the committee.

**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 limits the type of slot machines that may be utilized by slot machine facilities and which may be played by patrons of slot machine facilities to machines that operate a single player station off of a single random number generator. The bill would prohibit electronic multi-station games. According to an industry representative, over 200 game stations would have to be removed from the slot machine facilities, which would have an annual negative impact of approximately \$9 million to the slot machine facilities.

**C. Government Sector Impact:**

The bill provides clarity to the division regarding rulemaking authority concerning the internal components of slot machine gaming. Without this clarity, the division may continue to experience rule challenges. According to an industry representative, the result of the over 200 game stations being removed from the gaming floors would result in an annual negative impact of over \$4.8 million in gaming taxes to the state.

**VI. Technical Deficiencies:**

According to the division, on line 253, “not” was accidentally added. Committee staff has been informed that this was done in error and an amendment will be prepared to correct it.

**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.

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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

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

**Senate Amendment (with title amendment)**

Between lines 23 and 24  
insert:

Section 1. Subsection (4) of section 551.102, Florida Statutes, is amended to read:

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

(4) (a) "Eligible facility" means any licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution which ~~that~~ has conducted live racing or games during calendar years 2002 and 2003 and has been approved by a



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13 majority of voters in a countywide referendum to have slot  
14 machines at such facility in the respective county; any licensed  
15 pari-mutuel facility located within a county as defined in s.  
16 125.011, if the ~~provided~~ such facility has conducted live racing  
17 for 2 consecutive calendar years immediately preceding its  
18 application for a slot machine license, pays the required  
19 license fee, and meets the other requirements of this chapter;  
20 or any licensed pari-mutuel facility in any other county in  
21 which a majority of voters have approved slot machines at such  
22 facilities in a countywide referendum held pursuant to a  
23 statutory or constitutional authorization after the effective  
24 date of this section in the respective county, provided such  
25 facility has conducted a full schedule of live racing for 2  
26 consecutive calendar years immediately preceding its application  
27 for a slot machine license, pays the required licensed fee, and  
28 meets the other requirements of this chapter. A county that does  
29 not hold, or take action to hold, a slot machine referendum by  
30 January 31, 2012, must obtain specific legislative or  
31 constitutional authorization for the countywide referendum.

32 (b) For purposes of paragraph (a), the county takes action  
33 by January 31, 2012, if it:

34 1. Adopts an ordinance or resolution setting a countywide  
35 referendum;

36 2. Approves a countywide referendum and directs county  
37 staff to prepare a resolution or ordinance to implement the  
38 approval; or

39 3. Places a resolution or ordinance on the agenda for the  
40 county's next scheduled meeting of its governing body.

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42 Notwithstanding any other provision of law or court decision, a  
43 slot machine license may be issued to an eligible facility  
44 outside Miami-Dade County or Broward County; however, the  
45 license may not authorize slot machine gaming or require payment  
46 of any license fees or regulatory fees before July 7, 2015.

47  
48 ===== T I T L E A M E N D M E N T =====

49 And the title is amended as follows:

50 Delete line 3

51 and insert:

52 components; amending s. 551.102, F.S.; revising the  
53 definition of the term "eligible facility"; amending  
54 s. 551.103, F.S.; requiring the



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LEGISLATIVE ACTION

Senate

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House

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

**Senate Amendment (with title amendment)**

Between lines 243 and 244  
insert:

Section 3. Subsection (3) of section 551.118, Florida Statutes, is amended to read:

551.118 Compulsive or addictive gambling prevention program.—

(3) The compulsive or addictive gambling prevention program shall be funded from an annual nonrefundable regulatory fee of \$250,000 paid by the licensee to the private provider pursuant to subsection (2) division.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 14

and insert:

act; amending s. 551.118, F.S.; requiring that the  
annual nonrefundable regulatory fee that funds the  
compulsive or addictive gambling prevention program be  
paid to certain private providers rather than the  
division; amending s. 551.121, F.S.; prohibiting a  
slot



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LEGISLATIVE ACTION

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

**Senate Amendment (with title amendment)**

Delete lines 253 - 256  
and insert:  
for progressive jackpot payouts. A progressive system may be used in conjunction with slot machines between licensed facilities in this state ~~Florida~~ or in other jurisdictions.

Section 4. This act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 17 - 19



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13 and insert:  
14       player places his or her wagers;



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LEGISLATIVE ACTION

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

**Senate Amendment (with title amendment)**

Between lines 255 and 256  
insert:

Section 4. Section 849.094, Florida Statutes, is amended to read:

849.094 Game promotion in connection with sale of consumer products or services.-

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

(a) "Department" means the Department of Agriculture and Consumer Services.

(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 ~~there~~ 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



207754

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



207754

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 to game  
251 promotions that 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



207754

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       Between lines 19 and 20

279 insert:

280       amending s. 849.094, F.S.; adding and revising  
281       definitions; providing for the registration of  
282       electronic devices and computer terminals used to  
283       conduct electronic game promotions; prohibiting the  
284       Department of Agriculture and Consumer Services from  
285       accepting a filing from certain entities; establishing  
286       requirements for electronic game promotions; requiring  
287       certification of game promotion software; requiring  
288       that an operator of an electronic game production pay  
289       to the department an annual nonrefundable terminal fee  
290       per electronic device or computer terminal; requiring  
291       the department to remit the fees to the Department of  
292       Revenue for deposit into the General Revenue Fund;  
293       prohibiting certain conduct; limiting the  
294       applicability of the act; authorizing a county or  
295       municipality to adopt an ordinance, code, plan, rule,  
296       resolution, or other measure to regulate an operator  
297       that provides electronic devices or computer terminals  
298       for electronic game promotion or to prohibit the  
299       future operation of game promotions;



224720

LEGISLATIVE ACTION

Senate

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. .  
. .  
. .  
. .

House

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

**Senate Amendment (with title amendment)**

Between lines 255 and 256  
insert:

Section 4. Electronic devices or computer terminals that have video display monitors that reveal or display the results of a game promotion and that are in compliance with s. 849.094, Florida Statutes, or games operated under s. 849.161, Florida Statutes, may not be construed as slot machines or devices as defined in s. 551.102(8) or s. 849.16, Florida Statutes, or as described in s. 849.15, Florida Statutes.



224720

13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15       Delete line 19

16 and insert:

17       slot machines between other licenses facilities;  
18       providing that certain electronic devices or computer  
19       terminals with video display monitors that reveal or  
20       display the results of a game promotion meeting  
21       specified criteria, or certain games operated under  
22       specified rules, are not slot machines or devices;

By Senator Altman

24-00339A-12

2012986

A bill to be entitled

An act relating to slot machines and slot machine components; amending s. 551.103, F.S.; requiring the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules regulating slot machines and providing specifications for the internal components of slot machines; requiring that the division adopt specifications and procedures to ensure random probabilities of winning plays and provide for the operation of random-number generators; amending s. 551.104, F.S.; deleting obsolete provisions; clarifying duties of a slot machine licensee to conform to changes made by the act; amending s. 551.121, F.S.; prohibiting a slot machine's random-number generator from serving more than one station or terminal where an individual player places his or her wagers; providing for progressive jackpot payouts except in conjunction with slot machines between other licensed facilities; providing an effective date.

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

Section 1. Subsection (1) of section 551.103, Florida Statutes, is amended to read:

551.103 Powers and duties of the division and law enforcement.—

(1) The division shall adopt, pursuant to ~~the provisions of~~ ss. 120.536(1) and 120.54, all rules necessary to ~~implement,~~

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administer, and regulate slot machines and slot machine gaming as authorized in this chapter. ~~The~~ ~~Such~~ rules must include:

(a) Procedures for applying for a slot machine license and renewal of a slot machine license.

(b) Technical requirements and the qualifications contained in this chapter that are necessary to receive a slot machine license or slot machine occupational license.

(c) Procedures to scientifically test and technically evaluate slot machines, including all components, hardware, and software for slot machines, for compliance with this chapter. The division may contract with an independent testing laboratory to conduct any necessary testing under this section. The independent testing laboratory must have a national reputation and be which is demonstrably competent and qualified to scientifically test and evaluate slot machines for compliance with this chapter and to otherwise perform the functions assigned to it in this chapter. An independent testing laboratory may shall not be owned or controlled by a licensee. The use of an independent testing laboratory for any purpose related to the conduct of slot machine gaming by a licensee under this chapter shall be made from a list of one or more laboratories approved by the division.

(d) Procedures relating to slot machine revenues, including verifying and accounting for such revenues, auditing, and collecting taxes and fees consistent with this chapter.

(e) Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to slot machine gaming which that allow the division and the Department of Law Enforcement to audit the operation, financial

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59 data, and program information of a slot machine licensee, as  
 60 required by the division or the Department of Law Enforcement,  
 61 and provide the division and the Department of Law Enforcement  
 62 with the ability to monitor, at any time on a real-time basis,  
 63 wagering patterns, payouts, tax collection, and compliance with  
 64 any rules adopted by the division for the regulation ~~and control~~  
 65 of slot machines operated under this chapter. ~~The Such~~  
 66 continuous and complete access, at any time on a real-time  
 67 basis, shall include the ability of either the division or the  
 68 Department of Law Enforcement to suspend play immediately on  
 69 particular slot machines if monitoring of the facilities-based  
 70 computer system indicates possible tampering or manipulation of  
 71 those slot machines or the ability to suspend play immediately  
 72 of the entire operation if the tampering or manipulation is of  
 73 the computer system itself. The division shall notify the  
 74 Department of Law Enforcement or the Department of Law  
 75 Enforcement shall notify the division, as appropriate, whenever  
 76 there is a suspension of play under this paragraph. The division  
 77 and the Department of Law Enforcement shall exchange the such  
 78 information necessary for and cooperate in the investigation of  
 79 the circumstances requiring suspension of play under this  
 80 paragraph.

81 (f) Procedures for requiring each licensee at his or her  
 82 own cost and expense to supply the division with a bond having  
 83 the penal sum of \$2 million payable to the Governor and his or  
 84 her successors in office for each year of the licensee's slot  
 85 machine operations. ~~The Any~~ bond shall be issued by a surety or  
 86 sureties approved by the division and the Chief Financial  
 87 Officer, conditioned to faithfully make the payments to the

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88 Chief Financial Officer in his or her capacity as treasurer of  
 89 the division. The licensee shall ~~be required to~~ keep its books  
 90 and records and make reports as provided in this chapter and ~~to~~  
 91 conduct its slot machine operations in conformity with this  
 92 chapter and all other provisions of law. ~~The Such~~ bond shall be  
 93 separate and distinct from the bond required in s. 550.125.

94 (g) Procedures for requiring licensees to maintain  
 95 specified records and submit any data, information, record, or  
 96 report, including financial and income records, required by this  
 97 chapter or determined by the division to be necessary to the  
 98 proper implementation and enforcement of this chapter.

99 (h) A requirement that the payout percentage of a slot  
 100 machine be no less than 85 percent.

101 (i) Minimum standards for security of the facilities,  
 102 including floor plans, security cameras, and other security  
 103 equipment.

104 (j) Procedures for requiring slot machine licensees to  
 105 implement and establish drug-testing programs for all slot  
 106 machine occupational licensees.

107 (k) Specifications of the required internal components for  
 108 a slot machine, including the location, configuration, and  
 109 function of the components, and the operating requirements for  
 110 all hardware and software.

111 (l) Procedures and specifications for slot machines to  
 112 ensure the random probabilities of winning plays and the  
 113 specifications for the operation of the random-number generator  
 114 of each slot machine.

115 Section 2. Subsection (4) of section 551.104, Florida  
 116 Statutes, is amended to read:

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117 551.104 License to conduct slot machine gaming.-

118 (4) As a condition of licensure and to maintain continued  
119 authority for the conduct of slot machine gaming, the slot  
120 machine licensee shall:

121 (a) Continue to be in compliance with this chapter.

122 (b) Continue to be in compliance with chapter 550, where  
123 applicable, and maintain the pari-mutuel permit and license in  
124 good standing pursuant to the provisions of chapter 550.

125 ~~Notwithstanding any contrary provision of law and in order to~~  
126 ~~expedite the operation of slot machines at eligible facilities,~~  
127 ~~any eligible facility shall be entitled within 60 days after the~~  
128 ~~effective date of this act to amend its 2006-2007 pari-mutuel~~  
129 ~~wagering operating license issued by the division under ss.~~  
130 ~~550.0115 and 550.01215. The division shall issue a new license~~  
131 ~~to the eligible facility to effectuate any approved change.~~

132 (c) Conduct no fewer than a full schedule of live racing or  
133 games as defined in s. 550.002(11). A permitholder's  
134 responsibility to conduct such number of live races or games  
135 shall be reduced by the number of races or games that could not  
136 be conducted due to the direct result of fire, war, hurricane,  
137 or other disaster or event beyond the control of the  
138 permitholder.

139 (d) Upon approval of any changes relating to the pari-  
140 mutuel permit by the division, be responsible for providing  
141 appropriate current and accurate documentation on a timely basis  
142 to the division in order to continue the slot machine license in  
143 good standing. Changes in ownership or interest of a slot  
144 machine license of 5 percent or more of the stock or other  
145 evidence of ownership or equity in the slot machine license or

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146 any parent corporation or other business entity that in any way  
147 owns or controls the slot machine license ~~must shall~~ be approved  
148 by the division before the ~~prior to such~~ change, unless the  
149 owner is an existing holder of that license who was previously  
150 approved by the division. Changes in ownership or interest of a  
151 slot machine license of less than 5 percent, unless such change  
152 results in a cumulative total of 5 percent or more, shall be  
153 reported to the division within 20 days after the change. The  
154 division may then conduct an investigation to ensure that the  
155 license is properly updated to show the change in ownership or  
156 interest. Reporting ~~No reporting~~ is not required if the person  
157 holds is holding 5 percent or less equity or securities of a  
158 corporate owner of the slot machine licensee that has its  
159 securities registered pursuant to s. 12 of the Securities  
160 Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and if such  
161 corporation or entity files with the United States Securities  
162 and Exchange Commission the reports required by s. 13 of that  
163 act or if the securities of the corporation or entity are  
164 regularly traded on an established securities market in the  
165 United States. A change in ownership or interest of less than 5  
166 percent which results in a cumulative ownership or interest of 5  
167 percent or more ~~must shall~~ be approved by the division before  
168 the ~~prior to such~~ change unless the owner is an existing holder  
169 of the license who was previously approved by the division.

170 (e) Allow the division and the Department of Law  
171 Enforcement unrestricted access to and right of inspection of  
172 facilities of a slot machine licensee in which any activity  
173 relative to the conduct of slot machine gaming is conducted.

174 (f) Ensure that the facilities-based computer system that

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175 the licensee will use for operational and accounting functions  
 176 of the slot machine facility is specifically structured to  
 177 facilitate regulatory oversight. The facilities-based computer  
 178 system shall be designed to provide the division and the  
 179 Department of Law Enforcement with the ability to monitor, at  
 180 any time on a real-time basis, the wagering patterns, payouts,  
 181 tax collection, and such other operations as necessary to  
 182 determine whether the facility is in compliance with statutory  
 183 provisions and rules adopted by the division for the regulation  
 184 and control of slot machine gaming. The division and the  
 185 Department of Law Enforcement shall have complete and continuous  
 186 access to this system. Such access shall include the ability of  
 187 either the division or the Department of Law Enforcement to  
 188 suspend play immediately on particular slot machines if  
 189 monitoring of the system indicates possible tampering or  
 190 manipulation of those slot machines or the ability to suspend  
 191 play immediately of the entire operation if the tampering or  
 192 manipulation is of the computer system itself. The computer  
 193 system shall be reviewed and approved by the division to ensure  
 194 necessary access, security, and functionality. The division may  
 195 adopt rules to provide for the approval process.

196 (g) Ensure that each slot machine is protected from  
 197 manipulation or tampering ~~to affect the random probabilities of~~  
 198 ~~winning plays~~. The division or the Department of Law Enforcement  
 199 ~~has shall have~~ the authority to suspend play upon reasonable  
 200 suspicion of any manipulation or tampering. When play has been  
 201 suspended on any slot machine, the division or the Department of  
 202 Law Enforcement may examine the any slot machine to determine  
 203 whether the machine has been tampered with or manipulated and

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204 whether the machine should be returned to operation.

205 (h) Submit a security plan, including the facilities' floor  
 206 plan, the locations of security cameras, and a listing of all  
 207 security equipment that is capable of observing and  
 208 electronically recording activities being conducted in the  
 209 facilities of the slot machine licensee. The security plan must  
 210 meet the minimum security requirements as determined by the  
 211 division under s. 551.103(1)(i) and be implemented before the  
 212 ~~prior to~~ operation of slot machine gaming. The slot machine  
 213 licensee's facilities must adhere to the security plan at all  
 214 times. Any changes to the security plan must be submitted by the  
 215 licensee to the division before the plan is implemented ~~prior to~~  
 216 ~~implementation~~. The division shall furnish copies of the  
 217 security plan and changes in the plan to the Department of Law  
 218 Enforcement.

219 (i) Create and file with the division a written policy for:

- 220 1. Creating opportunities to purchase from vendors in this
- 221 state, including minority vendors.
- 222 2. Creating opportunities for employment of residents of
- 223 this state, including minority residents.
- 224 3. Ensuring opportunities for construction services from
- 225 minority contractors.
- 226 4. Ensuring that opportunities for employment are offered
- 227 on an equal, nondiscriminatory basis.
- 228 5. Training for employees on responsible gaming and working
- 229 with a compulsive or addictive gambling prevention program to
- 230 further its purposes as provided for in s. 551.118.
- 231 6. The implementation of a drug-testing program that
- 232 includes, but is not limited to, requiring each employee to sign

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233 an agreement that he or she understands that the slot machine  
234 facility is a drug-free workplace.

235

236 The slot machine licensee shall use the Internet-based job-  
237 listing system of the Department of Economic Opportunity in  
238 advertising employment opportunities. ~~Beginning in June 2007,~~  
239 Each slot machine licensee shall provide an annual report to the  
240 division containing information indicating compliance with this  
241 paragraph in regard to minority persons.

242 (j) Ensure that the payout percentage of a slot machine  
243 gaming facility is at least 85 percent.

244 Section 3. Subsection (5) of section 551.121, Florida  
245 Statutes, is amended to read:

246 551.121 Prohibited activities and devices; exceptions.-

247 (5) A slot machine's random-number generator may not serve  
248 more than one station or terminal where an individual player  
249 places his or her wagers. However, a slot machine, or the  
250 computer operating system linking the slot machine, may be  
251 linked by any means to any other slot machine or computer  
252 operating system within the facility of a slot machine licensee  
253 for progressive jackpot payouts. A progressive system may not be  
254 used in conjunction with slot machines between licensed  
255 facilities ~~in Florida or in other jurisdictions.~~

256 Section 4. This act shall take effect July 1, 2012.

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

**Subject:** Committee Agenda Request

**Date:** January 17, 2012

---

I respectfully request that **Senate Bill #986**, relating to Slot Machines and Slot Machine Components, be placed on the:  
committee agenda at your earliest possible convenience.  
next committee agenda.



---

Senator Thad Altman  
Florida Senate, District 24

Cc: Patrick L. "Booter" Imhof, Staff Director; Lynn Koon, Committee Administrative Assistant

## Senate Regulated Industries – SB 986

- **Definition of a slot machine - S. 551.102(8)**
- “Slot machine” means any mechanical or electrical contrivance, terminal that may or may not be **capable of downloading slot games from a central server system, machine, or other device** that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a “coin-operated amusement machine” as defined in s. 212.02(24) or an amusement game or machine as described in s. 849.161, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).



## 17 other jurisdictions authorize “common” RNG’s, including:

- Arkansas, Colorado, Delaware, Illinois,
- Indiana, Iowa, Louisiana, Maryland,
- Michigan, Mississippi, Missouri, Nevada,
- New Mexico, New York, Pennsylvania,
- Rhode Island, South Dakota

## Rules adopted...

### 61D-14.022 Slot Machine Requirements.

(2) No slot machine game shall be certified for play in this state by a licensed independent test laboratory *if it operates a program of play that replicates a game that is prohibited under Section 849.08*, Florida Statutes, unless the slot machine game contains a player skill component and is not based on a banking game.

### 61D-14.041 Randomness Requirements and Game Play Auditing.

(1) Each slot machine shall use an *internal* random number generator (RNG).

## Timeline

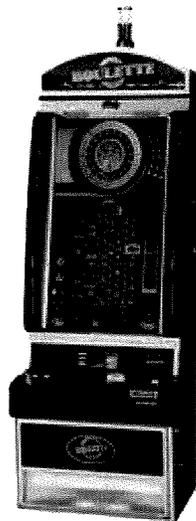
- Statutes passed and signed into law in January of 2006
- Rules adopted and in effect on July 1, 2006
- Gulfstream Casino opens November of 2006
- Laws changed in May of 2007 to reduce some of the operational restrictions

July 2008: petitions for Declaratory Statements for electronic table games filed.  
October 2008: IGT files Petition for waiver of internal RNG rule.  
December 2008: workshops held regarding multiple game themes.



Shuffle Master "Tablemaster" blackjack (above) authorized for play.

Rule Challenge filed on “replication rule” in August of 2009. Case settled in November of 2009 with issuance of Declaratory Statements and agreement to proceed through rulemaking to address concerns which led to rule challenge.

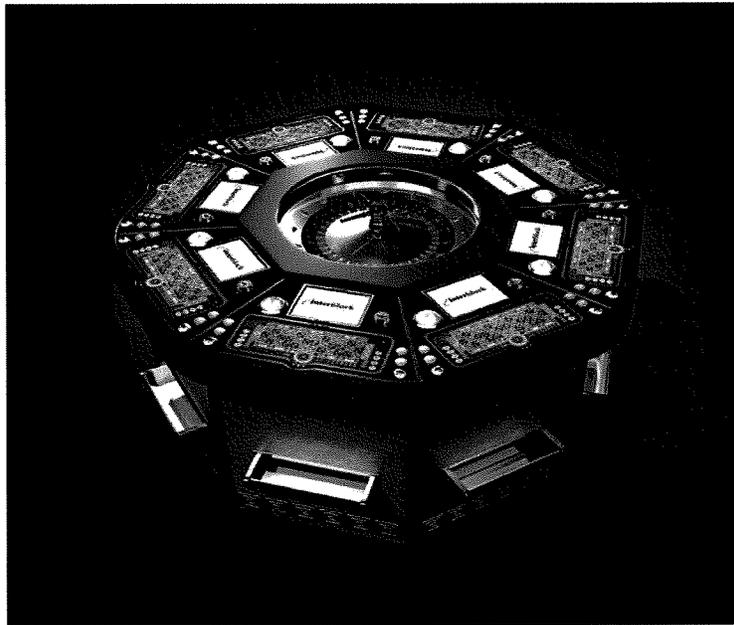


Bally Roulette (above) authorized for play at Florida pari-mutuel casinos.

January 2011: Digideal product approved by Division of Pari-mutuel Wagering.



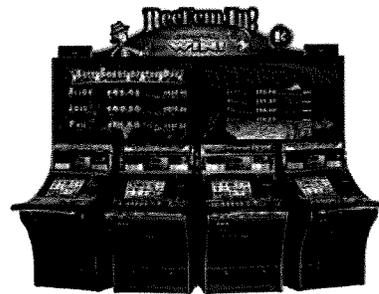
February 2011: Interblock and Shuffle Master challenge Internal RNG rule.  
April 2011: Internal RNG rule invalidated.  
January 2012: 1<sup>st</sup> DCA affirms ALJ ruling.



## Other Products at Risk: Shared Jackpot Slot Machines



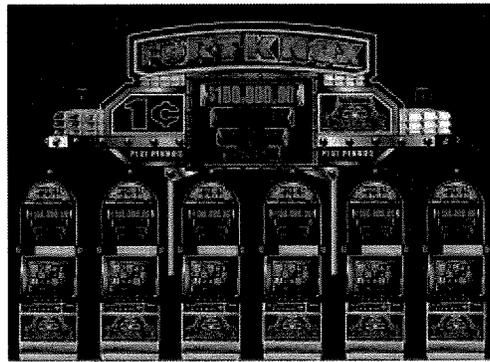
197 2011 - Foto: Walter Foto - Nido



Each player is playing on their own machine but at random times there will be a bonus event in which all players take part. The event is usually shown on a separate screen connected on top of the bank of machines. All players taking part in the bonus event will share in the jackpot. Many players like the shared jackpots because when one player wins, everybody wins.

## Other Products at Risk, cont'd

### Community Play – Single Winner Slot Machines



Sign is for concept only. Sign packages vary, and are subject to change.

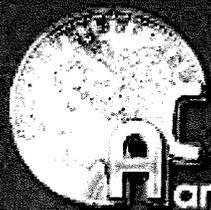
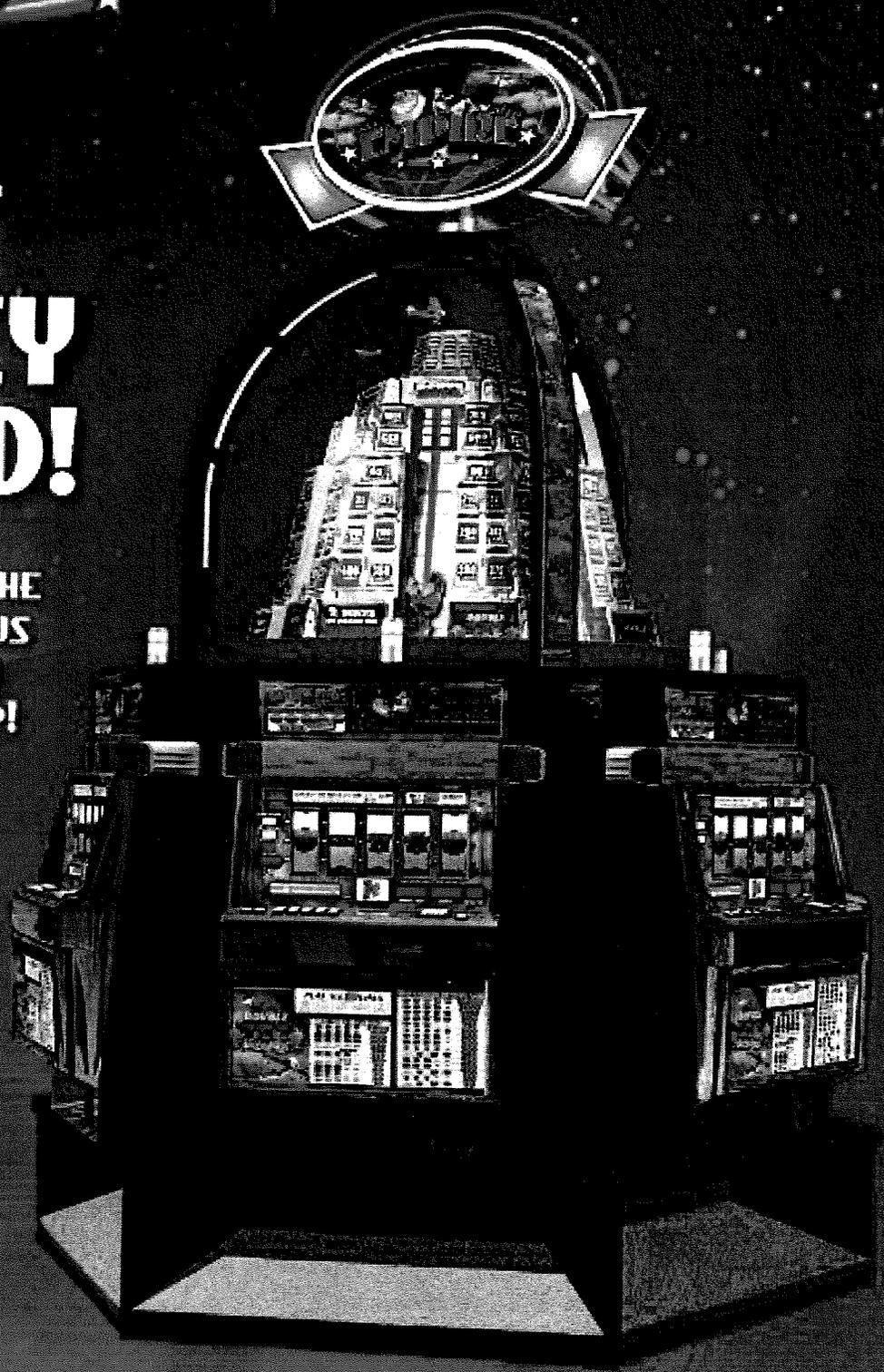
## Other Issues: System-Based Random Rewards

- Players are selected at certain intervals (i.e., every 30 minutes) to win a prize.
- Any player who is seated at a slot machine with their “players card” inserted into the machine may be selected to win.
- Commonly referred to as “hot seat” promotions in the industry.



# DON'T MONKEY AROUND!

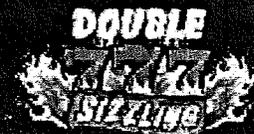
YOU'LL GO APE OVER THE  
HEART-STOPPING BONUS  
ACTION AS YOU CLAW  
YOUR WAY TO THE TOP!



**A** Coin  
and Slot  
The evolution of excitement

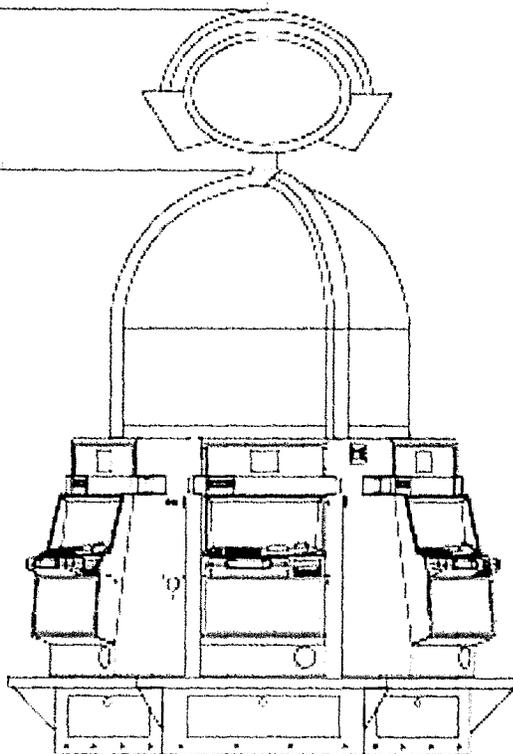
# Empire™ Community

## 5 Reel 25 Line Committal Bet

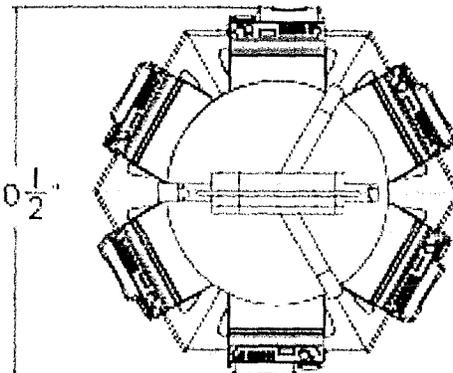


10'4"  
OPTIONAL  
SIGN

8'1"  $\frac{1}{2}$ "



6'-10"  $\frac{1}{2}$ "



### Game Features

- A 6 Station Streamline Footprint and an Exciting Community 2-D Bonus Event to Attract Players and Spectators Alike!
- Anticipation with Every Handle Pull as you Chink Your way to higher Payouts than ever before!
- Action Packed Instant Bonus Event with Enhanced Lights and Sounds Add Excitement to your Slot Floor.
- A Greater Time On Device Interactive with the Advance Accumulation Bonus Event!

### Specifications

Paytable: Double Sizzling 7's® 5-Reel 25 Line

Paylines: 25 Lines

Max Bet: 125 Credits

Base Game Top Award with Max Bet: 500,000 credits

Bonus Game Top Award with Max Bet: 100,000 credits

Denomination: Player Selectable Multi-Denomination

Bonus Frequency: Every 64 Handle pulls with all paylines active

**Instant Bonus: (3 Bonus Symbols)**

Avg. Bonus Pay: 1800.6 credits

Bonus Event % of Payback: 22.507%

**Advance Accumulation Bonus: (2 Bonus Symbols)**

Avg. Bonus Pay: 1039.5 credits

Bonus Event % of Payback: 12.994%



### Optimal Setup

Max Bet: 125

Denomination: .01

Offered in Paybacks Ranging from 89% - 91%

### Dimensions

Overall Game Height: 97.5"

Overall Height With Optional Sign: 124"

Game Width w/o Chairs: 82.5"

Game Width with Chairs: 138.5"

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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)

2/02/12

Meeting Date

Topic Department of Business and Professional Regulation Bill Number 986  
(if applicable)  
Name Michael Martinez Amendment Barcode \_\_\_\_\_  
(if applicable)  
Job Title Deputy General Counsel  
Address 1940 North Monroe St Phone 488-0063  
Street  
hall FL 32399  
City State Zip  
E-mail Michael.Martinez@DBPR.state.fl.us

Speaking:  For  Against  Information

Representing DBPR

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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/2

Meeting Date

Topic \_\_\_\_\_

Bill Number 986  
*(if applicable)*

Name Marc Dunbar

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 215 S Monroe St

Phone \_\_\_\_\_

Street

Tall., FL

City

State

32312

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Shufflemaster, Bally Technologies, Gulfstream park

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:** CS/SB 1286

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

**SUBJECT:** Treatment Programs for Impaired Professionals

**DATE:** February 2, 2012      **REVISED:** \_\_\_\_\_

|    | ANALYST    | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|------------|----------------|-----------|---------------|
| 1. | Harrington | Imhof          | RI        | <b>Fav/CS</b> |
| 2. | _____      | _____          | HR        | _____         |
| 3. | _____      | _____          | BC        | _____         |
| 4. | _____      | _____          | _____     | _____         |
| 5. | _____      | _____          | _____     | _____         |
| 6. | _____      | _____          | _____     | _____         |

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

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

**I. Summary:**

The Committee Substitute (CS) provides that the professions of emergency medical technicians, paramedics, and radiological personnel may be subject to the treatment program for impaired practitioners at the election of the impaired practitioner consultant.

In addition, the CS amends the requirements for the impaired practitioner consultant. It provides that the consultant may be an entity that employs a registered nurse as its executive director. It provides that the consultant may contract for services if requested by a school or program for students enrolled in a school for licensure as a health care practitioner under ch. 456, F.S. or as a veterinarian under ch. 474, F.S. The CS provides that whenever the department receives a legally sufficient complaint alleging that a licensee or applicant, not just licensee, is impaired and no other complaint exists, the appropriate board, the board's designee, or DOH shall forward all information in its possession regarding the impaired licensee or applicant to the consultant.

The CS takes effect on July 1, 2012.

This CS substantially amends section 456.076, Florida Statutes.

This CS creates the following sections of the Florida Statutes: 401.466 and 468.315.

## II. Present Situation:

### Department of Health

The Department of Health (DOH) is created in s. 20.43, F.S. The purpose of the Department of Health is to promote and protect the health of all residents and visitors in the state through organized state and community efforts, including cooperative agreements with counties.<sup>1</sup>

Section 20.43(3)(g), F.S., provides that the Division of Medical Quality Assurance is responsible for the following boards and professions within DOH:

- Board of Acupuncture, created under ch. 457.
- Board of Medicine, created under ch. 458.
- Board of Osteopathic Medicine, created under ch. 459.
- Board of Chiropractic Medicine, created under ch. 460.
- Board of Podiatric Medicine, created under ch. 461.
- Naturopathy, created under ch. 462.
- Board of Optometry, created under ch. 463.
- Board of Nursing, created under part I of ch. 464.
- Nursing Assistants, created under part II of ch. 464.
- Board of Pharmacy, created under ch. 465.
- Board of Dentistry, created under ch. 466.
- Midwifery, as provided under ch. 467.
- Board of Speech-Language Pathology and Audiology, created under ch. part I of ch. 468.
- Board of Nursing Home Administrators, created under part II of ch. 468.
- Board of Occupational Therapy, created under part III of ch. 468.
- Respiratory Therapy, as provided in part V of ch. 468.
- Dietetics and Nutrition Practice, as provided in part X of ch. 468.
- Board of Athlete Training, created under XIII of ch. 468.
- Board of Orthotists and Prosthetists, created under part XIV of ch. 468.
- Electrolysis, as provided under ch. 478.
- Board of Massage Therapy, created under ch. 480.
- Board of Clinical Laboratory Personnel, created under part III of ch. 483.
- Medical Physicists, as provided under part IV of ch. 483.
- Board of Opticianry, created under part I of ch. 484.
- Board of Hearing Aid Specialists, created under part II of ch. 484.
- Board of Physical Therapy Practice, created under ch. 486.
- Board of Psychology, created under ch. 490.
- School Psychologists, as provided under ch. 490.
- Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491.

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<sup>1</sup> Section 20.43(1), F.S.

**State Surgeon General**

The head of the DOH is the State Surgeon General and the State Health Officer.<sup>2</sup> The State Surgeon General must be a physician licensed under chapter 458 or chapter 459 who has advanced training or extensive experience in public health administration.

**Definition of Health Care Practitioner**

Chapter 456, F.S., provides the general regulatory provisions for health care professions within the Division of Medical Quality Assurance in the DOH. Section 456.001(4), F.S., defines “health care practitioner” to mean any person licensed under: ch. 457, F.S., (acupuncture); ch. 458, F.S., (medicine); ch. 459, F.S., (osteopathic medicine); ch. 460, F.S., (chiropractic medicine); ch. 461, F.S., (podiatric medicine); ch. 462, F.S., (naturopathic medicine); ch. 463, F.S., (optometry); ch. 464, F.S., (nursing); ch. 465, F.S., (pharmacy); ch. 466, F.S., (dentistry and dental hygiene); ch. 467, F.S., (midwifery); parts I, II, III, V, X, XIII, and XIV of ch. 468, F.S., (speech-language pathology and audiology, nursing home administration, occupational therapy, respiratory therapy, dietetics and nutrition practice, athletic trainers, and orthotics, prosthetics, and pedorthics); ch. 478, F.S., (electrolysis); ch. 480, F.S., (massage therapy); parts III and IV of ch. 483, F.S., (clinical laboratory personnel and medical physicists); ch. 484, F.S., (opticianry and hearing aid specialists); ch. 486, F.S., (physical therapy); ch. 490, F.S., (psychology); and ch. 491, F.S. (psychotherapy).

**Impaired Practitioners’ Treatment Programs**

Health care practitioners are regulated under various practice acts and the general regulatory provisions of ch. 456, F.S. Under s. 456.072(1)(z), F.S., disciplinary action may be taken against a licensed health care professional who is unable to practice with reasonable skill and safety due to illness, or use of alcohol, drugs, narcotics, chemicals or any other type of material, or as the result of any mental or physical condition. The impaired practitioners’ treatment program was created to help treat practitioners who are impaired due to alcohol or substance abuse. By entering and successfully completing the program, a practitioner may avoid formal disciplinary action by his or her board, if his or her only violation of the practice regulations is the impairment. Disciplinary action will not be taken if the practitioner acknowledges his or her impairment, voluntarily enrolls in an approved treatment program, and voluntarily withdraws from his or her practice or limits the scope of his or her practice as determined by the probable cause panel of the appropriate board until such time as the panel is satisfied that the practitioner has successfully completed the treatment program.<sup>3</sup> To avoid discipline, the practitioner must also execute releases for medical records authorizing the release of all records of evaluation, diagnosis, and treatment to the impaired practitioners’ treatment program consultant.<sup>4</sup> Unless specifically made part of the program,<sup>5</sup> the impaired practitioners’ treatment program is only available to health care practitioners regulated by the DOH.

Section 456.076, F.S., requires the DOH to retain one or more impaired practitioner consultants to assist the department in determining whether a practitioner is impaired and to monitor the

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<sup>2</sup> Section 20.43(2)(a), F.S.

<sup>3</sup> Section 456.076(3)(a), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> Currently, both the Board of Veterinary Medicine and the Board of Pilot Commissioners under the Department of Business and Professional Regulation provide impaired practitioner treatment programs for licensees within those practice acts. *See* ss. 474.221 and 310.102, F.S.

treatment of the impaired practitioner. The consultant must be a practitioner or recovered practitioner who is a Florida-licensed medical physician, osteopathic physician, physician assistant, anesthesiology assistant, or nurse. In the alternative, a consultant may be an entity employing a medical director licensed under these provisions. Consultants must refer impaired practitioners to department-approved treatment programs and providers.<sup>6</sup> Although consultants do not provide medical treatment, they are required to make recommendations to the DOH regarding a practitioner's ability to practice.

The DOH currently contracts with the Intervention Project for Nurses (IPN) for licensed nurses and the Professional Resource Network (PRN) for all other licensed professions.

### III. Effect of Proposed Changes:

**Section 1.** Creates s. 401.466, F.S., pertaining to treatment programs for impaired emergency medical technicians and paramedics.<sup>7</sup> The CS provides that a certified emergency medical technician or paramedic or person who has applied to be certified may be subject to the provisions of s. 456.076, F.S., at the election of an impaired practitioner consultant. Costs may not be charged to the Medical Quality Assurance Trust Fund within the Department of Health.

**Section 2.** Amends the requirements for an impaired practitioner consultant under s. 456.076, F.S. The CS provides that the consultant may also be an entity employing a registered nurse as an executive director, who must be a practitioner or recovered practitioner licensed under chs. 458, 459, or part I of ch. 464, F.S.

The CS provides that an entity that is retained as a consultant and employs a medical director or registered nurse as an executive director is not required to be licensed as a substance abuse provider or mental health treatment provider if the entity employs or contracts with licensed professionals to perform or appropriately supervise any specific treatment or evaluation that requires individual licensing or supervision.

The CS provides that the consultant may contract for services if requested by a school or program for students enrolled in a school for licensure as a health care practitioner under ch. 456, F.S. or as a veterinarian under ch. 474, F.S. The CS further provides that the school who refers such student to the consultant is not liable in any civil action against the student for the referral or for any resulting disciplinary action that affects the status of the student.

The CS provides that whenever the department receives a legally sufficient complaint alleging that a licensee or applicant, not just licensee, is impaired and no other complaint exists, the appropriate board, the board's designee, or the Department of Health shall forward all information in its possession regarding the impaired licensee or applicant to the consultant.

The CS clarifies that the Department of Financial Services shall defend any claim, suit, action, or proceeding, including a claim, suit, action, or proceeding for injunctive, affirmative, or

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<sup>6</sup> See s. 456.076, F.S.

<sup>7</sup> Part III of ch. 401, F.S., includes all persons licensed in medical transportation services.

declaratory relief, against the consultant, the consultant's officers or employees, or those acting at the direction of the consultant.

The CS provides that the impaired practitioner consultant is the official custodian of records concerning any impaired licensee monitored by that consultant. The consultant may not disclose to the impaired licensee any information that is disclosed to or retained by the consultant and is confidential. Instead, the impaired licensee must obtain such information from the Department of Health if a disciplinary proceeding is pending.

**Section 3.** Creates s. 468.315, F.S., pertaining to the creation of a treatment program for impaired radiological personnel.<sup>8</sup> The CS provides that a radiologic technologist who is certified or who has applied to be certified may be subject to s. 456.076, F.S., at the election of an impaired practitioner consultant.

**Section 4.** Provides that this act shall take effect 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 CS provides that the professions of emergency medical technicians, paramedics, and radiological personnel may be required to participate in the impaired practitioner program under the jurisdiction of the Division of Medical Quality Assurance. As a result, more licensed professionals may be eligible for assistance.

##### **C. Government Sector Impact:**

According to the DOH, this CS adds the professions of emergency medical technicians, paramedics, and radiological personnel to the professions covered by the impaired

<sup>8</sup> Part IV of ch. 468, F.S., includes all persons licensed as radiological personnel.

practitioner treatment programs, and will require additional contracts for services with PRN. The DOH estimates that it will cost approximately \$81,620 per year beginning in FY 13-14 to cover those other professions.

**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.)

**CS by Regulated Industries Committee on February 2, 2012:**

The CS removed the provisions relating to the Department of Business and Professional Regulation (DBPR) which required a person licensed by or applying for a license from DBPR to be governed by the provisions providing programs for impaired practitioners under the jurisdiction of the Medical Quality Assurance within the Department of Health.

- B. **Amendments:**

None.



184246

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/03/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete lines 51 - 63.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 3 - 13

and insert:

professionals; creating s. 401.466, F.S.; providing

By Senator Thrasher

8-00281A-12

20121286\_\_

1 A bill to be entitled  
 2 An act relating to treatment programs for impaired  
 3 professionals; amending s. 20.165, F.S.; authorizing  
 4 the Department of Business and Professional Regulation  
 5 to require a person licensed by or applying for a  
 6 license from the department to be governed by  
 7 provisions providing programs for impaired  
 8 practitioners under the jurisdiction of the Division  
 9 of Medical Quality Assurance within the Department of  
 10 Health; authorizing the Department of Business and  
 11 Professional Regulation to exercise any of the powers  
 12 granted to the Department of Health with respect to  
 13 such programs; creating s. 401.466, F.S.; providing  
 14 that an emergency medical technician or paramedic who  
 15 is certified or has applied to be certified may be  
 16 subject to a treatment program for impaired  
 17 practitioners at the election of the impaired  
 18 practitioner consultant; prohibiting charging the  
 19 associated costs to the Medical Quality Assurance  
 20 Trust Fund within the Department of Health; amending  
 21 s. 456.076, F.S.; exempting an entity retained by the  
 22 Department of Health as an impaired practitioner  
 23 consultant from certain licensing requirements if the  
 24 entity employs or contracts with licensed  
 25 professionals; revising the schools or programs that  
 26 may contract for impaired practitioner consulting  
 27 services; limiting the liability of certain medical  
 28 schools and schools that prepare health care  
 29 practitioners and veterinarians for licensure for

Page 1 of 7

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

8-00281A-12

20121286\_\_

30 referring a student to an impaired practitioner  
 31 consultant; authorizing the Department of Health to  
 32 refer an applicant for licensure to the consultant;  
 33 clarifying the types of legal proceedings related to  
 34 services provided by impaired practitioner consultants  
 35 which are defended by the Department of Financial  
 36 Services; clarifying requirements for an impaired  
 37 practitioner consultant to maintain as confidential  
 38 certain information concerning an impaired  
 39 practitioner; authorizing the department and certain  
 40 other entities to have administrative control over the  
 41 impaired practitioner consultant to the extent  
 42 necessary to receive disclosures; creating s. 468.315,  
 43 F.S.; providing that a radiologic technologist who is  
 44 certified or who has applied to be certified may be  
 45 subject to a treatment program for impaired  
 46 practitioners at the election of an impaired  
 47 practitioner consultant; providing an effective date.

48  
 49 Be It Enacted by the Legislature of the State of Florida:

50  
 51 Section 1. Subsection (10) is added to section 20.165,  
 52 Florida Statutes, to read:

53 20.165 Department of Business and Professional Regulation.—  
 54 There is created a Department of Business and Professional  
 55 Regulation.

56 (10) The Department of Business and Professional Regulation  
 57 may require a person licensed by or applying for a license from  
 58 the department to be governed by s. 456.076 as if the person

Page 2 of 7

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

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59 were under the jurisdiction of the Division of Medical Quality  
 60 Assurance. The Department of Business and Professional  
 61 Regulation may exercise any of the powers granted to the  
 62 Department of Health by s. 456.076, and the term "board" means  
 63 the board from which the license was granted or is sought.

64 Section 2. Section 401.466, Florida Statutes, is created to  
 65 read:

66 401.466 Treatment program for impaired emergency medical  
 67 technicians and paramedics.—An emergency medical technician or  
 68 paramedic who is certified or has applied to be certified under  
 69 this part may be subject to s. 456.076 at the election of an  
 70 impaired practitioner consultant; however, associated costs may  
 71 not be charged to the Medical Quality Assurance Trust Fund  
 72 within the Department of Health.

73 Section 3. Subsection (2), paragraph (d) of subsection (3),  
 74 and paragraph (b) of subsection (7) of section 456.076, Florida  
 75 Statutes, are amended, and subsection (8) is added to that  
 76 section, to read:

77 456.076 Treatment programs for impaired practitioners.—

78 (2) (a) The department shall retain one or more impaired  
 79 practitioner consultants who are each licensees. ~~The consultant~~  
 80 ~~shall be a licensee~~ under the jurisdiction of the Division of  
 81 Medical Quality Assurance within the department and who must be:

82 1. A practitioner or recovered practitioner licensed under  
 83 chapter 458, chapter 459, or part I of chapter 464; ~~or~~

84 2. An entity employing a medical director or employing a  
 85 registered nurse as an executive director, who must be a  
 86 practitioner or recovered practitioner licensed under chapter  
 87 458, chapter 459, or part I of chapter 464.

8-00281A-12 20121286\_\_

88 (b) An entity that is retained as a consultant under this  
 89 section and employs a medical director or registered nurse as an  
 90 executive director is not required to be licensed as a substance  
 91 abuse provider or mental health treatment provider under chapter  
 92 394, chapter 395, or chapter 397 in order to operate as a  
 93 consultant under this section if the entity employs or contracts  
 94 with licensed professionals to perform or appropriately  
 95 supervise any specific treatment or evaluation that requires  
 96 individual licensing or supervision.

97 (c) The consultant shall assist the probable cause panel  
 98 and department in carrying out the responsibilities of this  
 99 section. This ~~includes~~ shall include working with department  
 100 investigators to determine whether a practitioner is, in fact,  
 101 impaired. The consultant may contract for services to be  
 102 provided, for appropriate compensation, if requested by a ~~the~~  
 103 school or program, for students enrolled in a school ~~schools~~ for  
 104 licensure as a health care practitioner under chapter 456 or a  
 105 veterinarian under chapter 474 ~~allopathic physicians or~~  
 106 physician assistants under chapter 458, ~~osteopathic physicians~~  
 107 or physician assistants under chapter 459, nurses under chapter  
 108 464, or pharmacists under chapter 465 who are alleged to be  
 109 impaired as a result of the misuse or abuse of alcohol or drugs,  
 110 or both, or due to a mental or physical condition.

111 (d) The department is not responsible under any  
 112 circumstances for paying the costs of care provided by approved  
 113 treatment providers, and the department is not responsible for  
 114 paying the costs of consultants' services provided for such  
 115 students.

116 (e) A medical school accredited by the Liaison Committee on

8-00281A-12 20121286\_\_

117 Medical Education of the Commission on Osteopathic College  
 118 Accreditation, or ~~another~~ ~~other~~ school providing for the  
 119 education of students enrolled in preparation for licensure as a  
 120 health care practitioner under chapter 456 or a veterinarian  
 121 under chapter 474 ~~allopathic physicians under chapter 458 or~~  
 122 ~~osteopathic physicians under chapter 459~~, which school is  
 123 governed by accreditation standards requiring notice and the  
 124 provision of due process procedures to students, is not liable  
 125 in any civil action for referring a student to the consultant  
 126 retained by the department or for disciplinary actions that  
 127 adversely affect the status of a student when the disciplinary  
 128 actions are instituted in reasonable reliance on the  
 129 recommendations, reports, or conclusions provided by such  
 130 consultant, if the school, in referring the student or taking  
 131 disciplinary action, adheres to the due process procedures  
 132 adopted by the applicable accreditation entities and if the  
 133 school committed no intentional fraud in carrying out the  
 134 provisions of this section.

135 (3)

136 (d) Whenever the department receives a legally sufficient  
 137 complaint alleging that a licensee or applicant is impaired as  
 138 described in paragraph (a) and no complaint against the licensee  
 139 or applicant other than impairment exists, the appropriate  
 140 board, the board's designee, or the department shall forward all  
 141 information in its possession regarding the impaired licensee or  
 142 applicant to the consultant. For the purposes of this section, a  
 143 suspension from hospital staff privileges due to the impairment  
 144 does not constitute a complaint.

145 (7)

8-00281A-12 20121286\_\_

146 (b) In accordance with s. 284.385, the Department of  
 147 Financial Services shall defend any claim, suit, action, or  
 148 proceeding, including a claim, suit, action, or proceeding for  
 149 injunctive, affirmative, or declaratory relief, against the  
 150 consultant, the consultant's officers or employees, or those  
 151 acting at the direction of the consultant for the limited  
 152 purpose of an emergency intervention on behalf of a licensee or  
 153 student as described in subsection (2) when the consultant is  
 154 unable to perform such intervention that ~~which~~ is brought as a  
 155 result of any act or omission by any of the consultant's  
 156 officers and employees and those acting under the direction of  
 157 the consultant for the limited purpose of an emergency  
 158 intervention on behalf of a licensee or student as described in  
 159 subsection (2) when the consultant is unable to perform such  
 160 intervention when such act or omission arises out of and in the  
 161 scope of the consultant's duties under its contract with the  
 162 department.

163 (8) An impaired practitioner consultant is the official  
 164 custodian of records concerning any impaired licensee monitored  
 165 by that consultant. The consultant may not, except to the extent  
 166 necessary for carrying out the consultant's duties under this  
 167 section, disclose to the impaired licensee or his or her  
 168 designee any information that is disclosed to or obtained by the  
 169 consultant and is confidential under paragraph (5)(a). The  
 170 department, and any other entity to which the consultant  
 171 contracts, shall have direct administrative control over the  
 172 consultant to the extent necessary to receive disclosures from  
 173 the consultant as allowed by federal law. If a disciplinary  
 174 proceeding is pending, an impaired licensee may obtain such

8-00281A-12 20121286\_\_

175 information from the department under s. 456.073(10).

176 Section 4. Section 468.315, Florida Statutes, is created to  
177 read:

178 468.315 Treatment program for impaired radiological  
179 personnel.—A radiologic technologist who is certified or who has  
180 applied to be certified under this part may be subject to s.  
181 456.076 at the election of an impaired practitioner consultant.

182 Section 5. This act shall take effect July 1, 2012.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Rules, *Chair*  
Budget - Subcommittee on Higher Education  
Appropriations, *Vice Chair*  
Budget  
Budget - Subcommittee on Criminal and Civil Justice  
Appropriations  
Community Affairs  
Judiciary  
Reapportionment  
Regulated Industries  
Rules - Subcommittee on Ethics and Elections

**SENATOR JOHN THRASHER**

8th District

January 30, 2012

## MEMORANDUM

**To:** Senator Dennis Jones, Chairman  
Senate Committee on Regulated Industries

**Fm:** Senator John Thrasher

**Re:** Senate Bill 1286; Impaired Practitioners Program

---

It will be appreciated if you will agenda my Senate Bill 1286 for a hearing by the Senate Committee on Regulated Industries at the earliest practicable time.

Thank you for your consideration of this request.

### REPLY TO:

- 9485 Regency Square Boulevard, Suite 108, Jacksonville, Florida 32225-8145 (904) 727-3600
- 400 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030  
1-888-861-9761

Senate's Website: [www.flsenate.gov](http://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)

2-2-12

Meeting Date

Topic Impaired practitioners

Bill Number SB 12860  
*(if applicable)*

Name Michelle Jacobus

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Director of Legislative Advocacy

Address PO BOX 10269

Phone 251-2288

Tallahassee, FL 32302  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information waive/support

Representing FL Medical 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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-2-12

Meeting Date

Topic Impaired Professionals

Bill Number 1286  
*(if applicable)*

Name Dr. Martha Brown

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title PRN Assistant Medical Director

Address P.O. Box 1020

Phone 1-800-888-8776

Street

Fernandina Beach, FL 32035

E-mail marthabrown@ufl.edu

City

State

Zip

Speaking:  For  Against  Information

Representing PRN, Inc. (Professionals Resource Network)

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

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2-2-2012

Date

SB 1286

Bill Number

WAIVE TIME IN SUPPORT

Barcode

Name STEPHEN R. WIND

Phone 878-7364

Address 2007 APALACHEE PARKWAY

E-mail

Street TALLAHASSEE, FL 32301

Job Title EX. DIR.

City State Zip

Speaking: [X] For [ ] Against [ ] Information Appearing at request of Chair [ ]

Subject TREATMENT PROGRAMS FOR IMPAIRED PRACTITIONERS

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Lobbyist registered with Legislature: [X] 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.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/2/12  
Meeting Date

Topic Impaired Practitioners IPN/PRN Bill Number 1286  
(if applicable)

Name Linda L. Smith, ARNP Amendment Barcode \_\_\_\_\_  
(if applicable)

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Speaking:  For  Against  Information

Representing IPN

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.

**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.)

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Prepared By: The Professional Staff of the Regulated Industries Committee

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BILL: SB 1120

INTRODUCER: Senator Jones

SUBJECT: Department of Business and Professional Regulation

DATE: February 2, 2012      REVISED: \_\_\_\_\_

|    | ANALYST  | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|----------|----------------|-----------|------------------|
| 1. | Oxamendi | Imhof          | RI        | <b>Favorable</b> |
| 2. |          |                | BC        |                  |
| 3. |          |                |           |                  |
| 4. |          |                |           |                  |
| 5. |          |                |           |                  |
| 6. |          |                |           |                  |

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**I. Summary:**

The bill repeals provisions related to the use of metering machines for placing tax stamps on cigarette packages to evidence payment of excise taxes. According to the Department of Business and Professional Regulation (department), such machines are no longer in use.

The bill repeals the following licensing requirements:

- The requirement that professional licensees of the department who change from inactive to active status during the renewal of their license must complete a licensure cycle on active status before they can return to inactive status;
- The license requirement for the chief administrators of real estate schools;
- The requirement that applicants for licensure as a nonresident real estate broker, sales associate, appraisal management company, and appraiser to file an irrevocable consent for service through which a plaintiffs may service process against the non-resident license by sending the process by certified mail with return receipt to the director of the agency as well as to the licensee’s principal place of business. This bill would require plaintiffs to obtain service of process against a nonresident licensee with a process server;
- The requirement that an applicant for a real estate professional’s license must apply with the department before taking a license examination; and
- The requirement that alcoholic beverages licenses be issued in duplicate.

The bill would take effect upon becoming law.

This bill substantially amends the following sections of the Florida Statutes: 210.01, 210.05, 210.07, 210.11, 210.12, 210.15, 210.18, 455.271, 475.02, 475.180, 475.451, 475.6235, 475.631, and 561.23. The bill repeals section 476.124, Florida Statutes.

## 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.<sup>1</sup> 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.
- 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.

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<sup>1</sup> Chapter 93-220, L.O.F.

The Pilot Rate Review Committee is established under the Board of Pilot Commissioners.<sup>2</sup> 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<sup>3</sup> and the Regulatory Council of Community Managers<sup>4</sup> 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.

### **Cigarette Regulation in Florida**

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (department) oversees the collection of excise taxes from the sale of cigarettes and other tobacco products. Part I, ch. 210, F.S., consisting of ss. 210.01-210.22, F.S., provides for the taxation of cigarettes. Part II, ch. 210, F.S., consisting of ss. 210.25-210.75, F.S., provides for the taxation of tobacco products other than cigarettes and cigars.

The sale and delivery of tobacco is governed by the division under the provisions of ch. 569, F.S. The division and the department, along with the Department of Health, are involved in the enforcement of the Florida Clean Indoor Air Act.<sup>5</sup> The division consults with the State Fire Marshall, the Division of Hotels and Restaurants with the department, and the Department of Health on rulemaking for the Florida Clean Indoor Air Act.<sup>6</sup>

### **Cigarette Metering Machines**

Section 210.011, F.S., levies a cigarette surcharge that varies based on the weight and length of

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<sup>2</sup> Section 310.151, F.S.

<sup>3</sup> Section 548.003, F.S.

<sup>4</sup> Section 468.4315, F.S.

<sup>5</sup> Part II, ch. 386, F.S.

<sup>6</sup> See s. 386.207, F.S.

the cigarettes or the quantity of cigarettes in a package. For example, packages containing 10 cigarettes or fewer require a surcharge of 50 cents and packages containing more than 10 but not more than 20 cigarettes require a surcharge of \$4.<sup>7</sup> Section 210.02, F.S., imposes an excise tax on the sale of cigarettes.

The excise tax also varies based on the weight and length of the cigarettes or the quantity of cigarettes in a packaged. For example, when cigarettes are packaged, packages containing 10 cigarettes or less are assessed a 33.9-cent tax and packages containing more than 10 but not more than 20 cigarettes are assessed a 135.6-cent tax.

Section 210.05(1), F.S., requires that the taxes imposed under part II of ch. 210, F.S., must be paid by affixing stamps in the manner prescribed in this section or affixing stamp insignia through the use metering machines. Cigarette wholesale dealers who are approved as stamping agents under s. 210.05(3)(a), F.S., are required to place adhesive stamps on packages of cigarettes. These stamps are evidence of payment of the applicable excise tax and surcharge prior to selling the cigarettes in Florida. According to the department, metering machines have not been used to place tax indicia on the cigarette packages for many years because the company that supplies the machines no longer makes them.

#### **Inactive and Delinquent Status**

Section 455.271(2), F.S., permits licensees of each board, or the department when there is no board, to choose an active or inactive status at the time of license renewal. A licensee who changes from inactive to active status during renewal of his/her license is ineligible to return to inactive status until the licensee completes a licensure cycle on active status.

#### **Chief Administrator Permits**

In the context of schools that teach real estate practice, s. 475.451(2)(b), F.S., defines the term “chief administrative person” to mean:

the individual who is responsible for the administration of the overall policies and practices of the institution or proprietary real estate school. A chief administrative person must also meet the requirements of a school instructor if actively engaged in teaching.

To be licensed, a chief administrator must remit to the department a \$20 application fee, an \$80 license fee,<sup>8</sup> and the \$5 unlicensed activity fee required by s. 455.2281, F.S.

The department characterizes the current licensing requirements for chief administrators as very minimal. The department does not approve any courses that they take, and the school is not required to have a chief administrator as a condition to operate. According to the department, there are currently 51 licensed chief administrators.

#### **Nonresident Real Estate Licenses-Irrevocable Consent**

Sections 475.180(1), F.S., relating to real estate professionals under part I of ch. 475, F.S., and

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<sup>7</sup> See s. 210.011, F.S.,

<sup>8</sup> Rule 61J2-1.011, F.A.C., specifies the applicable fees.

s. 475.631(1), F.S., relating to real estate appraisers under part II of ch. 475, F.S., permit nonresidents to be licensed as real estate professionals or appraiser, in this state without having to meet the pre-licensure and post licensure educational requirements if the Real Estate Commission or the Florida Real Estate Appraisal Board, as applicable, have entered into written agreements with similar licensing authorities of other states, territories, or jurisdictions of the United States or foreign national jurisdictions. These agreements must ensure that Florida-licensurees receive licensure opportunities in those jurisdictions that are comparable to those afforded to nonresidents in this state.

Section 475.180(2)(a), F.S., requires applicants for licensure as a nonresident real estate professional to file an irrevocable consent that plaintiffs may serve any process or pleading in suits or actions against her or him by delivering the process or pleading to the director of the Division of Real Estate by certified mail, return receipt requested, and also to the licensee by registered mail addressed to the licensee at her or his designated principal place of business.

The bill repeals a similar requirement for an irrevocable consent for service of process for appraisal management companies in s. 475.6235(7), F.S., and for nonresident appraisers in s. 475.631(2), F.S.,

The procedure for serving process on a nonresident license defers from that required in other civil actions. The rules of civil procedure require that pleadings be served by a process server.<sup>9</sup> According to the department, it is not clear what the Division of Real Estate should do with a pleading once they are served as provided in ss. 475.180(1), 475.6235, or 475.631, F.S. The department states that the requirement that nonresident licensees sign irrevocable consent form has created more deficiencies with applications due to not being completed or not being completed correctly. This extends the time to process applications.

#### **Barbering-Application for Examination**

Section 476.124, F.S., requires that an applicant for examination as a barber to submit an application at least 30 days prior to examination on department forms, provide two signed photographs with their application, and pay the required fee to the department. The examination fee is \$150.<sup>10</sup>

#### **Duplicate Alcoholic Beverage Licenses**

Section 561.23, F.S., requires alcoholic beverages licenses to be issued in duplicate. The original license must be delivered to the licensee and one copy must be retained by the division. The original license must be displayed in conspicuous places on the licensed premises. The department states that it delivers the original license to the licensee through the US Postal Service and that that it previously kept a hard copy of the original license on file within the Division of Alcoholic Beverage and Tobacco. In June of 2009, the Division of Alcoholic Beverage and Tobacco implemented a document management system through which the division retains an electronic copy of the original license.

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<sup>9</sup> See rule 1.070, Fla.R.Civ.Pro.

<sup>10</sup> Rule 61G3-20.002(1), F.A.C.

### III. Effect of Proposed Changes:

#### **Cigarette Metering Machines**

The bill repeals the provisions relating to the use of metering machines in ss. 210.07(1) and (2), F.S.

To conform to the repeal of the metering machine provision in ss. 210.07(1) and (2), F.S., the bill amends the following provisions:

- The definition of the term “agent” in s. 210.01(9), F.S., to delete the reference to affixing tax stamps by meter;
- Section 210.05(1), F.S., to delete the reference to affixing stamp insignia through the device of metering machines authorized in part 1 of ch. 210, F.S.;
- Section 210.11, F.S., to delete references to the payment of taxes by metering machine;
- Section 210.12(1), F.S., to delete the reference to the meter impression of the stamp in the context of the requirement that cigarettes packages must be displayed and arranged so the that the tax stamp is clearly visible;
- Section 210.15(2), F.S., to delete the reference to the division’s authority to approve the use of meter machines to evidence the payment of taxes; and
- Section 210.18(3), F.S., to delete the prohibition against falsely or fraudulently making, forging, altering, or counterfeiting any impression die used in meter machines and against jamming, tampering, or altering a meter machine with the intent to evade taxes.

#### **Inactive and Delinquent Licenses**

The bill amends s. 455.271, F.S., to remove the provision that requires licensees who change from inactive to active status during the renewal of their license to complete a licensure cycle on active status before they can return to inactive status.

#### **Real Estate Professionals-Chief Administrators**

The bill repeals the requirement for a license by the chief administrators of real estate schools by deleting the definition for the term “chief administrative person” in s. 475.451(2)(b), F.S.

To conform to the repeal of the chief administrator definition in s. 475.451(2)(b), F.S., the bill amends s. 475.02(3), F.S., to delete the reference the chief administrator permit.

#### **Real Estate Nonresident Licenses-Irrevocable Consent**

The bill amends s. 475.180(2), F.S., to repeal the requirement that applicants for licensure as a nonresident real estate professional must file an irrevocable consent for process of service.

The bill also amends s. 475.6235,(7), F.S., to repeal the requirement that applicants for registration as real estate appraisal management company must file an irrevocable consent for process of service.

The bill also amends s. 475.631,(2), F.S., to repeal the requirement that applicants for licensure as a nonresident real estate appraiser must file an irrevocable consent for process of service.

This bill would require plaintiffs to obtain service of process with a process server instead of by serving the Division of Real Estate by certified mail, return receipt requested, and also to the licensee by registered mail addressed to the licensee at her or his designated principal place of business.

**Barbering-Application for Examination**

The bill repeals Section 476.124, Florida Statutes, which requires that an applicant submit an application at least 30 days prior to examination on department forms, provide two signed photographs with their application, and pay the required fee to the department.

**Duplicate Alcoholic Beverage Licenses**

The bill amends s. 561.23(1), F.S., to delete the requirement that alcoholic beverages licenses be issued in duplicate.

**Effective Date**

The bill would take effect upon becoming law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The chief administrators of real estate schools would save the cost of being licensed, which includes a \$20 application fee, the \$80 license fee, and a \$5 unlicensed activity fee.

**C. Government Sector Impact:**

The department anticipates a minimal fiscal impact due to the repeal of the license requirement for the chief administrators of real estate schools. There are currently 51 licensed chief administrator licensees. The department averages 5 applications for chief administrator annually. Due to the elimination of the \$20 application fee, the \$80 license fee, and the \$5 unlicensed activity fee, the department estimates initial license application fees, license fees, and unlicensed activity fees for this profession that total approximately \$483 in FY 2012-2013 and \$4,393 in FY 2013-2014. In determining its fiscal impact, the department's analysis does not consider the potential saving associated with the elimination its regulatory duties.

**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 Jones

13-00697B-12

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1 A bill to be entitled  
 2 An act relating to the Department of Business and  
 3 Professional Regulation; amending s. 210.01, F.S.;  
 4 redefining the term "agent" as it relates to the  
 5 cigarette tax, to conform to changes made by the act;  
 6 amending s. 210.05, F.S.; deleting a provision that  
 7 allows the cigarette tax to be paid by affixing a  
 8 stamp insignia through a metering machine; amending s.  
 9 210.07, F.S.; deleting provisions authorizing the use  
 10 of metering machines; requiring retail dealers of  
 11 cigarettes, rather than wholesale dealers, to affix to  
 12 each such machine, in a conspicuous place, an  
 13 identification sticker furnished by the Division of  
 14 Alcoholic Beverages and Tobacco within the Department  
 15 of Business and Professional Regulation; amending ss.  
 16 210.11 and 210.12, F.S.; conforming provisions to  
 17 changes made by the act; amending s. 210.15, F.S.;  
 18 deleting a provision that prohibited the division from  
 19 approving the use of meter machines to evidence the  
 20 payment of the taxes on cigarettes except to qualified  
 21 wholesale dealers; amending s. 210.18, F.S.;  
 22 conforming provisions regarding penalties relating to  
 23 the use of metering machines; amending s. 455.271,  
 24 F.S.; deleting a provision that provides that a  
 25 licensee of the department who changes from inactive  
 26 to active status is not eligible to return to inactive  
 27 status until the licensee thereafter completes a  
 28 licensure cycle on active status; amending s. 475.02,  
 29 F.S.; conforming a provision to changes made by the

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30 act; amending s. 475.180, F.S.; deleting a provision  
 31 that requires an applicant for a real estate license  
 32 who is not a resident of this state to file an  
 33 irrevocable consent regarding lawsuits and actions  
 34 commenced against the applicant; deleting provisions  
 35 prescribing the method of service of process; amending  
 36 s. 475.451, F.S.; deleting the requirement that an  
 37 applicant to be chief administrator of a proprietary  
 38 real estate school or state institution meet certain  
 39 qualifications for licensure as a broker associate or  
 40 sales associate and other minimal requirements;  
 41 deleting the definition of the term "chief  
 42 administrative person" as it relates to schools  
 43 teaching real estate practice; repealing s.  
 44 475.6235(7), F.S., relating to a nonresidential  
 45 applicant's requirement to file an irrevocable consent  
 46 regarding lawsuits and actions against an appraisal  
 47 management company; amending s. 475.631, F.S.;  
 48 deleting the provision that requires an applicant for  
 49 licensure as an appraiser who is not a resident of  
 50 this state to file an irrevocable consent regarding  
 51 lawsuits and actions commenced against the applicant;  
 52 deleting the method of service of process; repealing  
 53 s. 476.124, F.S., relating to certain application  
 54 requirements for licensing examinations in barbering;  
 55 amending s. 561.23, F.S.; deleting the requirement  
 56 that licenses issued under the Beverage Law be issued  
 57 in duplicate; providing an effective date.  
 58

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

60  
61 Section 1. Subsection (9) of section 210.01, Florida  
62 Statutes, is amended to read:

63 210.01 Definitions.—When used in this part the following  
64 words shall have the meaning herein indicated:

65 (9) "Agent" means any person authorized by the Division of  
66 Alcoholic Beverages and Tobacco to purchase and affix adhesive  
67 ~~or meter~~ stamps under this part.

68 Section 2. Subsection (1) of section 210.05, Florida  
69 Statutes, is amended to read:

70 210.05 Preparation and sale of stamps; discount.—

71 (1) The tax imposed by this part shall be paid by affixing  
72 stamps in the manner herein set forth ~~or by affixing stamp~~  
73 ~~insignia through the device of metering machines authorized in~~  
74 ~~this part.~~

75 Section 3. Section 210.07, Florida Statutes, is amended to  
76 read:

77 210.07 Metering Machines.—

78 ~~(1)(a) The tax may also be paid through the use of~~  
79 ~~cigarette tax stamp insignia to be applied by the use of~~  
80 ~~metering machines. The division shall prescribe and promulgate~~  
81 ~~appropriate rules and regulations governing the use of metering~~  
82 ~~machines, the procedure for the payment of such cigarette taxes~~  
83 ~~through the use thereof, requiring adequate surety bonds of the~~  
84 ~~users thereof to assure the proper use of such machines and~~  
85 ~~payment of all cigarette taxes that might come due by the users~~  
86 ~~thereof, and all other rules and regulations necessary and~~  
87 ~~proper to govern the use of same.~~

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88 ~~(b) The provisions of s. 210.05(3)(a) and (b) shall be~~  
89 ~~applicable to cigarette taxes paid through the use of metering~~  
90 ~~machines.~~

91 ~~(2) All provisions of this part governing the use of~~  
92 ~~cigarette tax stamps, the compiling of records, the making of~~  
93 ~~reports, permits and revocation of permits, seizures and~~  
94 ~~forfeitures, penalties, and all other provisions pertaining to~~  
95 ~~the payment of cigarette taxes through the use of stamps, shall~~  
96 ~~likewise be applicable to the payment of said taxes through the~~  
97 ~~use of metering machines.~~

98 (1)(3) Wholesale or Retail dealers of cigarettes owning,  
99 leasing, furnishing, or operating cigarette vending machines  
100 shall affix to each such machine, in a conspicuous place, an  
101 identification sticker furnished by the division. Every sticker  
102 shall show the vending machine serial number and the name and  
103 address of the cigarette ~~wholesale or~~ retail dealer owning,  
104 leasing, furnishing, or operating the said vending machine.

105 (2)(4) A person may not operate a ~~No~~ vending machine shall  
106 ~~be allowed to operate~~ in the state unless that does not have  
107 ~~affixed thereto~~ the identification sticker required by this  
108 section is affixed to the vending machine. A person may not  
109 ~~operate a nor shall any~~ vending machine ~~be allowed to operate~~ in  
110 the state ~~which that~~ does not display at all times at least one  
111 package of each brand of the packages located therein so the  
112 same are clearly visible and arranged in such a manner that the  
113 cigarette tax stamps ~~or meter impressions of stamps~~ affixed  
114 thereto are clearly visible. A ~~It shall be the duty of any~~  
115 person, firm, or corporation operating a cigarette vending  
116 machine in this state ~~must to~~ must furnish to the division the

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117 location of the vending machine and ~~to~~ report within 30 days to  
118 the division any change of location of the vending machine.

119 Section 4. Section 210.11, Florida Statutes, is amended to  
120 read:

121 210.11 Refunds; sales of stamps and payment of tax.-  
122 Whenever any cigarettes upon which stamps have been placed, ~~or~~  
123 ~~upon which the tax has been paid by metering machine,~~ have been  
124 sold and shipped into another state for sale or use therein, or  
125 have become unfit for use and consumption or unsalable, or have  
126 been destroyed, the dealer involved shall be entitled to a  
127 refund or credit of the actual amount of the tax paid with  
128 respect to such cigarettes less any discount allowed by the  
129 division in the sale of the stamps ~~or payment of the tax by~~  
130 ~~metering machine,~~ upon receipt of satisfactory evidence of the  
131 dealer's right to receive such refund or credit, provided  
132 application for refund or credit is made within 9 months after  
133 ~~of~~ the date the cigarettes were shipped out of the state, became  
134 unfit, or were destroyed. Only the division shall sell, or offer  
135 for sale, any stamp or stamps issued under this part. The  
136 division may redeem unused stamps lawfully in the possession of  
137 any person. The division may prescribe necessary rules and  
138 ~~regulations~~ concerning refunds, credits, sales of stamps, and  
139 redemptions under the provisions of this part. Appropriation is  
140 hereby made out of revenues collected under this part for  
141 payment of such allowances.

142 Section 5. Subsection (1) of section 210.12, Florida  
143 Statutes, is amended to read:

144 210.12 Seizures; forfeiture proceedings.-  
145 (1) The state, acting by and through the division, may

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146 ~~shall be authorized and empowered to~~ seize, confiscate, and  
147 forfeit any cigarettes upon which taxes payable hereunder may be  
148 unpaid or which ~~that~~ are otherwise held in violation of the  
149 requirements of this chapter, and also any vending machine or  
150 receptacle in which cigarettes upon which taxes have not been  
151 paid are held for sale, or any vending machine that does not  
152 have affixed thereto the identification sticker required by ~~the~~  
153 ~~provisions of~~ s. 210.07, or that ~~which~~ does not display at all  
154 times at least one package of each brand of cigarettes located  
155 therein so the same is clearly visible and arranged in such a  
156 manner that the cigarette tax stamp ~~or meter impression of the~~  
157 ~~stamp~~ affixed thereto is clearly visible. Such seizure may be  
158 made by the division, its duly authorized representative, any  
159 sheriff or deputy sheriff, or any police officer.

160 Section 6. Subsection (2) of section 210.15, Florida  
161 Statutes, is amended to read:

162 210.15 Permits.-

163 (2) The division may not furnish stamps ~~or approve the use~~  
164 ~~of meter machines~~ to evidence the payment of the taxes on  
165 cigarettes except to qualified wholesale dealers.

166 Section 7. Subsection (3) of section 210.18, Florida  
167 Statutes, is amended to read:

168 210.18 Penalties for tax evasion; reports by sheriffs.-

169 (3) Any person who falsely or fraudulently makes, forges,  
170 alters, or counterfeits any stamp ~~or impression die used in~~  
171 ~~meter machines~~ prescribed by the division under the provisions  
172 of this part; ~~or, with intent to evade taxes, jams, tampers~~  
173 ~~with, or alters such a machine,~~ or causes or procures to be  
174 falsely or fraudulently made, forged, altered, or counterfeited

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 175 any such stamp ~~or die~~; or knowingly and willfully utters,  
 176 purchases, passes or tenders as true any such false, altered, or  
 177 counterfeited stamp ~~or die impression~~; or, with the intent to  
 178 defraud the state, fails to comply with any other requirement of  
 179 this part commits a felony of the third degree, punishable as  
 180 provided in s. 775.082, s. 775.083, or s. 775.084.

181 Section 8. Subsection (2) of section 455.271, Florida  
 182 Statutes, is amended to read:

183 455.271 Inactive and delinquent status.—

184 (2) Each board, or the department when there is no board,  
 185 shall permit a licensee to choose, at the time of licensure  
 186 renewal, an active or inactive status. ~~However, a licensee who~~  
 187 ~~changes from inactive to active status is not eligible to return~~  
 188 ~~to inactive status until the licensee thereafter completes a~~  
 189 ~~licensure cycle on active status.~~

190 Section 9. Subsection (3) of section 475.02, Florida  
 191 Statutes, is amended to read:

192 475.02 Florida Real Estate Commission.—

193 (3) Notwithstanding s. 112.313, any member of the  
 194 commission who is a licensed real estate broker or sales  
 195 associate and who holds an active real estate school permit,  
 196 ~~chief administrator permit~~, school instructor permit, or any  
 197 combination of such permits issued by the department, to the  
 198 extent authorized pursuant to such permit, may offer, conduct,  
 199 or teach any course prescribed or approved by the commission or  
 200 the department.

201 Section 10. Subsection (2) of section 475.180, Florida  
 202 Statutes, is amended to read:

203 475.180 Nonresident licenses.—

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 204 (2)(a) ~~Any applicant who is not a resident of this state~~  
 205 ~~shall file an irrevocable consent that suits and actions may be~~  
 206 ~~commenced against her or him in any county of this state in~~  
 207 ~~which a plaintiff having a cause of action or suit against her~~  
 208 ~~or him resides, and that service of any process or pleading in~~  
 209 ~~suits or actions against her or him may be made by delivering~~  
 210 ~~the process or pleading to the director of the Division of Real~~  
 211 ~~Estate by certified mail, return receipt requested, and also to~~  
 212 ~~the licensee by registered mail addressed to the licensee at her~~  
 213 ~~or his designated principal place of business. Service, when so~~  
 214 ~~made, must be taken and held in all courts to be as valid and~~  
 215 ~~binding upon the licensee as if made upon her or him in this~~  
 216 ~~state within the jurisdiction of the court in which the suit or~~  
 217 ~~action is filed. The irrevocable consent must be in a form~~  
 218 ~~prescribed by the department and be acknowledged before a notary~~  
 219 ~~public.~~

220 (a)(b) Any resident licensee who becomes a nonresident  
 221 shall, within 60 days, notify the commission of the change in  
 222 residency and comply with nonresident requirements. Failure to  
 223 notify and comply is a violation of the license law, subject to  
 224 the penalties in s. 475.25.

225 (b)(c) All nonresident applicants and licensees shall  
 226 comply with all requirements of commission rules and this part.  
 227 The commission may adopt rules necessary for the regulation of  
 228 nonresident licensees.

229 Section 11. Subsection (2) of section 475.451, Florida  
 230 Statutes, is amended to read:

231 475.451 Schools teaching real estate practice.—

232 (2) An applicant for a permit to operate a proprietary real

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233 ~~estate school, to be a chief administrator of a proprietary real~~  
 234 ~~estate school or a state institution, or to be an instructor for~~  
 235 a proprietary real estate school or a state institution must  
 236 meet the qualifications for practice set forth in s. 475.17(1)  
 237 and the following minimal requirements:

238 (a) "School permitholder" means the individual who is  
 239 responsible for directing the overall operation of a proprietary  
 240 real estate school. A school permitholder must be the holder of  
 241 a license as a broker, either active or voluntarily inactive, or  
 242 must have passed an instructor's examination approved by the  
 243 commission. A school permitholder must also meet the  
 244 requirements of a school instructor if actively engaged in  
 245 teaching.

246 ~~(b) "Chief administrative person" means the individual who~~  
 247 ~~is responsible for the administration of the overall policies~~  
 248 ~~and practices of the institution or proprietary real estate~~  
 249 ~~school. A chief administrative person must also meet the~~  
 250 ~~requirements of a school instructor if actively engaged in~~  
 251 ~~teaching.~~

252 ~~(b)(e)~~ "School instructor" means an individual who  
 253 instructs persons in the classroom in noncredit college courses  
 254 in a college, university, or community college or courses in a  
 255 career center or proprietary real estate school.

256 1. Before commencing to provide such instruction, the  
 257 applicant must certify the applicant's competency and obtain an  
 258 instructor permit by meeting one of the following requirements:

259 a. Hold a bachelor's degree in a business-related subject,  
 260 such as real estate, finance, accounting, business  
 261 administration, or its equivalent and hold a valid broker's

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262 license in this state.

263 b. Hold a bachelor's degree, have extensive real estate  
 264 experience, as defined by rule, and hold a valid broker's  
 265 license in this state.

266 c. Pass an instructor's examination approved by the  
 267 commission.

268 2. Any requirement by the commission for a teaching  
 269 demonstration or practical examination must apply to all school  
 270 instructor applicants.

271 3. The department shall renew an instructor permit upon  
 272 receipt of a renewal application and fee. The renewal  
 273 application shall include proof that the permitholder has, since  
 274 the issuance or renewal of the current permit, successfully  
 275 completed a minimum of 7 classroom hours of instruction in real  
 276 estate subjects or instructional techniques, as prescribed by  
 277 the commission. The commission shall adopt rules providing for  
 278 the renewal of instructor permits at least every 2 years. Any  
 279 permit that which is not renewed at the end of the permit period  
 280 established by the department ~~shall~~ automatically reverts ~~revert~~  
 281 to involuntarily inactive status.

282  
 283 The department may require an applicant to submit names of  
 284 persons having knowledge concerning the applicant and the  
 285 enterprise; may propound interrogatories to such persons and to  
 286 the applicant concerning the character of the applicant,  
 287 including the taking of fingerprints for processing through the  
 288 Federal Bureau of Investigation; and shall make such  
 289 investigation of the applicant or the school or institution as  
 290 it may deem necessary to the granting of the permit. If an

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291 objection is filed, it shall be considered in the same manner as  
 292 objections or administrative complaints against other applicants  
 293 for licensure by the department.

294 Section 12. Subsection (7) of section 475.6235, Florida  
 295 Statutes, is repealed.

296 Section 13. Subsection (2) of section 475.631, Florida  
 297 Statutes, is amended to read:

298 475.631 Nonresident licenses and certifications.-

299 ~~(2)(a) An applicant who is not a resident of this state  
 300 shall file an irrevocable consent that suits and actions may be  
 301 commenced against her or him in any county of this state in  
 302 which a plaintiff having a cause of action or suit against her  
 303 or him resides and that service of any process or pleading in  
 304 suits or actions against her or him may be made by delivering  
 305 the process or pleading to the director of the Division of Real  
 306 Estate by certified mail, return receipt requested, and also to  
 307 the certified appraiser or licensee by registered mail addressed  
 308 to the certified appraiser or licensee at her or his designated  
 309 principal place of business. Service, when so made, must be  
 310 taken and held in all courts to be as valid and binding upon the  
 311 certified appraiser or licensee as if made upon her or him in  
 312 this state within the jurisdiction of the court in which the  
 313 suit or action is filed. The irrevocable consent must be in a  
 314 form prescribed by the department and be acknowledged before a  
 315 notary public.~~

316 (a)(b) Any resident state-certified appraiser who becomes a  
 317 nonresident shall, within 60 days, notify the board of the  
 318 change in residency and comply with nonresident requirements.  
 319 Failure to notify and comply is a violation of the license law,

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320 subject to the penalties in s. 475.624.

321 (b)(e) All nonresident applicants, certified appraisers,  
 322 and licensees shall comply with all requirements of board rules  
 323 and this part. The board may adopt rules pursuant to ss.  
 324 120.536(1) and 120.54 necessary for the regulation of  
 325 nonresident certified appraisers and licensees.

326 Section 14. Section 476.124, Florida Statutes, is repealed.

327 Section 15. Section 561.23, Florida Statutes, is amended to  
 328 read:

329 561.23 License ~~issued in duplicate~~; display.-

330 ~~(1) Licenses shall be issued in duplicate. The original  
 331 license shall be delivered to the licensee; and one copy shall  
 332 be retained by the division.~~

333 ~~(2)~~ All vendors licensed under the Beverage Law shall  
 334 display their licenses in conspicuous places on their licensed  
 335 premises.

336 Section 16. This act shall take effect upon becoming a law.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** January 11, 2012

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I respectfully request that **Senate Bill #1120**, relating to DBPR repealer bills, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

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Senator Dennis L. Jones, D.C.  
Florida Senate, District 13

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/2/12

Meeting Date

Topic Department of Business and Professional Regulation Bill Number 1120  
*(if applicable)*

Name Tim Nungesser Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Affairs Director

Address 1940 N. Monroe St. Phone 445-5367  
*Street*

Tallahassee FL 32399  
*City State Zip*

E-mail tim.nungesser@dbpr.state.fl.us

Speaking:  For  Against  Information

Representing DBPR

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.**

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

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

Prepared By: The Professional Staff of the Regulated Industries Committee

**BILL:** CS/SB 1252

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

**SUBJECT:** Business and Professional Regulation

**DATE:** February 2, 2012      **REVISED:** \_\_\_\_\_

|    | ANALYST  | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|----------|----------------|-----------|---------------|
| 1. | Oxamendi | Imhof          | RI        | <b>Fav/CS</b> |
| 2. |          |                | CJ        |               |
| 3. |          |                | Bu        |               |
| 4. |          |                |           |               |
| 5. |          |                |           |               |
| 6. |          |                |           |               |

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

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

**I. Summary:**

This bill relates to the Department of Business and Professional Regulation. The bill revises the following provisions related to the department’s licensing processes and the requirements for the professions licensed by the department. The bill:

- Waives the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for military veterans who apply to the department for a license within 24 months of being honorably discharged from service;
- Authorizes the department to approve continuing education providers and courses without a review by the appropriate board if the provider or course application does not require expert review or denial;
- Authorizes the department, in lieu of a board, to approve applications for reinstatement of a void license if the department determines that the individual failed to comply due to illness or economic hardship;
- Permits continuing education instructors to complete their continuing education through distance learning;
- Revises the provisions related to the regulation of appraisal management companies banks, credit unions, or other lending institutions that own and operate an internal

- appraisal office, business unit, or department. This is consistent with the federal Dodd Frank Act, which exempts from state regulation financial institutions that own or operate an internal appraiser office, business, unit, or department and appraisal management companies that are owned and controlled by a subsidiary of a financial institution;
- Permits applicants for a real estate appraiser's certification to the results of national examinations required for the license that were obtained more than 24 month after the date of the examination;
  - Prohibits appraisal management companies from requiring that appraisers agree to an indemnity agreement;
  - Permits barbers to provide barbering services outside of a licensed barbershop, include a consumer's place of employment.
  - Deletes the requirement that limits the ability of barbers to provide barbering services at a residence to only when the client is in ill health and unable to go to the barbershop;
  - Provides that a cosmetology license is not required to provide makeup services to the general public;
  - Permits applicants for licensure by endorsement as a cosmetologist to substitute work experience for educational hours when applying for a licensure as provided by rule of the Board of Cosmetology;
  - Permits cosmetologists and specialists to perform cosmetology and specialty services at special events held outside of salons if they are employed by a licensed salon and appointments for such services are made through a licensed salon;
  - Extends, from November 1, 2005 to November 1, 2014, the period for registered contractors, who are limited to practicing within the county or counties in which they are registered, to qualify for state-wide certification; and
  - Limits the five percent tax on closed circuit television broadcasts of pugilistic matches to matches originating within this state and deletes the tax for matches that originate out-of-state.

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

This bill substantially amends the following sections of the Florida Statutes: 455.213, 455.2179, 455.271, 455.273, 455.275, 475.451, 475.611, 475.6171, 475.6235, 475.6245, 476.188, 477.0135, 477.019, 477.0263, 489.118, 548.061.

## 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.<sup>1</sup> 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.

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<sup>1</sup> Chapter 93-220, L.O.F.

- 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.
- 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.<sup>2</sup> 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<sup>3</sup> and the Regulatory Council of Community Managers<sup>4</sup> are also housed within the department.

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<sup>2</sup> Section 310.151, F.S.

<sup>3</sup> Section 548.003, F.S.

<sup>4</sup> Section 468.4315, F.S.

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 Providers**

Section 455.2179, F.S., provides for the approval of continuing education providers by the boards, or the department if there is no board. The department must forward applications for continuing education providers and courses to the appropriate licensing board. Current law does not permit the department to approve providers or courses without board review.

### **Inactive and Delinquent Status**

Section 455.271, F.S., permits the boards, or the department if there is no board, to reinstate a voided license if the licensee has made a good faith effort to comply with licensure requirements and was unable to comply because of illness or unusual hardship. According to the department, the most common basis for requesting reinstatement of a void license is economic hardship.

### **Renewal and Cancellation Notices**

Section 455.273, F.S., requires the department to mail renewal and cancellation notices to licensees' last known addresses of record at least 90 days prior to expiration or cancellation of the license. Section 455.273(2), F.S., requires the department to include a conspicuous statement in each renewal and cancellation notice stating that, if a licensee remains on inactive status for more than two consecutive licensure cycles, the licensee may be required to sit for a special purpose examination or other reactivation requirements prior to reactivation of their license.

Section 455.275, F.S., requires licensees to provide the department with written notification of their current mailing address and place of practice. The department must mail, to the licensee's last known address of record, notices and official communications to the licensees, except where service of process is required for disciplinary proceeding pursuant to s. 455.225, F.S.

### **Real Estate Schools-Distance Learning**

Section 475.17(2)(a)2., F.S., authorizes the Florida Real Estate Commission to approve distance learning courses as an option to classroom hours as satisfactory completion continuing education requirements. Real estate schools have the option of providing classroom courses, distance learning courses, or both. A satisfactory completion of a distance learning course must require the satisfactory completion of a timed distance learning course examination. Such examination does not need to be monitored or given at a centralized location.

**Appraisal Management Companies**

Individual real estate appraisers are regulated under part II of ch. 475, F.S., by the Florida Real Estate Appraisal Board within the department. Section 475.6235, F.S., requires the registration of Appraisal Management Companies.

“Appraisal management company,” is defined in s. 475.611(1)(c), F.S., to mean a person<sup>5</sup> who performs appraisal management services.

The term “appraisal management services” is defined in s.475.611(1)(d), F.S., to mean the coordination or management of appraisal services for compensation by:

1. Employing, contracting with, or otherwise retaining one or more appraisers to perform appraisal services for a client; or
2. Acting as a broker or intermediary between a client and one or more appraisers to facilitate the client’s employing, contracting with, or otherwise retaining the appraisers.

Section 475.6235(1), F.S., provides that a person may not engage in appraisal services for compensation or advertise themselves as an appraisal management company or use the titles “appraisal management company,” “appraiser cooperative,” “appraiser portal,” or “mortgage technology company,” or any abbreviation or words to that effect, unless the person is registered with the department as an appraisal management. A person may not engage in appraisal management services for compensation in this state, advertise or represent herself or himself as an appraisal management company, or company under this section.

Employees of the appraisal management company are not required to obtain a separate registration.

The “Dodd-Frank Wall Street Reform and Consumer Protection Act (Frank-Dodd Act)”<sup>6</sup> permits states to regulate appraisal management companies. However, an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency is not be required to register with a state.<sup>7</sup>

**Barbering**

Section 476.188(1), F.S., provides that barbering services can be performed only in a registered barbershop, except when such services are performed in a nursing home, hospital, or residence due to a client’s illness.

**Cosmetology**

Section 477.013(4), F.S., defines the term “cosmetology” to mean:

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<sup>5</sup> Section 1.01(3), F.S., defines the word “person” to include “individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.”

<sup>6</sup> “Dodd-Frank Wall Street Reform and Consumer Protection Act” Pub. L. 111-203 (2010).

<sup>7</sup> *Id.* at s. 1473.

the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.

Section 477.0135, F.S., provides several exceptions to the requirement of a cosmetology license. Section 477.0135(1)(f), F.S., provides an exemption for the cosmetology license requirement for “persons whose practice is limited to the application of cosmetic products to another person in connection with the sale, or attempted sale, of such products at retail without compensation from such other person other than the regular retail price of such merchandise.”

Section 477.0135(5), F.S., provides that a cosmetology “license is not required of any individual providing makeup, special effects, or cosmetology services to an actor, stunt person, musician, extra, or other talent during a production recognized by the Office of Film and Entertainment as a qualified production” as defined in s. 288.1254(1), F.S. These services are not required to be performed in a licensed salon. However, these persons may not provide such services to the general public without a license.

Section 477.0135(6), F.S., also provides a license exemption for makeup or special effects services provided in a theme park or entertainment complex, as defined in s. 509.013(9), F.S., to an actor, stunt person, musician, extra, or other talent, or providing makeup or special effects services to the general public. It appears that the exemption for makeup or special effects services to the general public is limited to those provided in the theme parks.

Section 477.019, F.S., permits cosmetologists who are licensed in another state to receive a Florida license if the license qualifications in the other state are similar to, equivalent to, or greater than the qualifications required in this state. The Florida qualifications include proof of passing a written examination; and completion of 1200 educational hours.<sup>8</sup> According to the department, individuals who have been practicing cosmetology services in another state for many years have difficulty providing proof of the completion of the 1200 educational hours. Many times this is because the other state does not retain the records for an extended period of time. In Florida, the Department of State Division of Library Services is in charge of the preservation of public records.<sup>9</sup> The division is authorized to adopt rules for the retention and disposal of public records.<sup>10</sup>

Section 477.0263, F.S., provides that all cosmetology services must be performed in a licensed salon, except when services are performed in a residence, nursing home or hospital because the client is too ill to travel to a licensed salon, or when services are provided in connection with the motion picture, fashion photography, theatrical, or television industry; or at a photography studio salon, manufacturer’s trade show demonstration; or an educational seminar.

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<sup>8</sup> See s. 477.019, F.S.

<sup>9</sup> See s. 257.35, F.S.

<sup>10</sup> See s. 257.36(6), F.S.

**Construction Contracting**

The Construction Industry Licensing Board (CILB) is responsible for the licensure and regulation under part I of ch. 489, F.S., of construction contractors. Construction contractors in Florida must be certified or registered before commencing business as a contractor.<sup>11</sup>

Certification means that the contractor is licensed by the state to contract statewide.<sup>12</sup>

Alternatively, a contractor may register with the state to perform construction services only within the limited geographic confines of the local jurisdiction in which the registered contractor has been licensed by the local jurisdiction.<sup>13</sup>

A state certification or registration is required for persons who perform the following categories of construction services: general contractors, building contractors, residential contractors, sheet metal contractors, roofing contractors, air-conditioning contractors, mechanical contractors, swimming pool/spa, plumbing contractors, underground utility and excavation contractors, solar contractors, pollutant storage systems contractors, and glass and glazing contractors.<sup>14</sup>

Section 489.118, F.S., permits registered contractors to receive a state-wide certification without taking the state licensure examination if they meet the specified criteria, including holding a current, valid registration, passing a written examination that the board finds is substantially similar to the examination required to be licensed as a certified contractor, has at least five years of experience, has not had a contractor's license revoked, and is in compliance with the insurance and financial responsibility requirements in s. 489.115(5), F.S. To qualify for certification, registered contractors must have applied to the department by November 1, 2005.

**Pugilistic Exhibitions**

Chapter 548, F.S., provides for the licensure and regulation of professional and amateur boxing, kickboxing, and mixed martial arts by the Florida State Boxing Commission. Section 548.006(3), F.S., provides the Florida State Boxing Commission exclusive jurisdiction for the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for boxing and kickboxing matches held in the state. This jurisdiction does not extend to amateur sanctioning organizations for mixed martial arts.

Section 548.0065, F.S., requires amateur sanctioning organizations to notify the department of upcoming amateur matches held in the state.

Section 548.008(1), F.S., prohibits matches involving amateurs that utilize, but are not necessarily limited to, strikes or blows to the head unless the match is sanctioned and supervised by an amateur sanctioning organization approved by the Florida State Boxing Commission.

Section 548.008(2), F.S., provides that no professional match may be held in this state unless it meets the requirements for holding the match as provided in ch. 548, F.S., and the rules adopted by the Florida State Boxing Commission.

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<sup>11</sup> Section 489.113(2), F.S.

<sup>12</sup> Section 489.113(1), F.S.

<sup>13</sup> Section 489.117(1), F.S.

<sup>14</sup> See s. 489.105(3)(a)-(q), F.S.

Section 548.008(3)(a), F.S., provides that any person who participates in a match prohibited under this section, knowing the match is prohibited, commits a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.<sup>15</sup>

Section 548.008(3)(b), F.S., provides that any person who holds, promotes, or sponsors a match prohibited under this section, commits a felony of the third degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.<sup>16</sup>

The commission's primary duty is to ensure that all matches comply with the laws and rules and that the matches are competitive and physically safe for the participants. The commission licenses 1,655 professionals per year and processes approximately 71 live event permits annually. In addition to its daily processing of applications for licensure and the approval or denial of live event permits, the commission coordinates live event schedules and evaluates proposed fight cards. It also evaluates the assignment of officials (referees, judges, physicians) and event staff (event coordinator, chief inspector, inspectors, and timekeeper).

A department representative or commission representative is assigned to attend each official weigh-in and live event. This person attends the official weigh-in during which the application is processed, license fees are collected, the results of participant medical examinations are verified, pre-fight physicals are conducted by physicians, the promoter/participant contracts are collected, participants' weights are recorded, officials' (referee, judges, and physicians) pay from the promoter are collected, and the required accidental death and health insurance for each of the participants is verified. The department or commission representative is also accompanied to the event by department's OPS event staff, i.e., the event coordinator, timekeeper, and inspector. These OPS event staff and the representative from the department or commission also inspect the ring for safety standards, verify that emergency medical personnel and an ambulance are on-site, assign inspectors to each of the fighters, conduct match timekeeping, verify assigned officials are present, distribute officials' pay following the event, and conduct participant drug tests, if necessary.<sup>17</sup>

### **Pugilistic Exhibitions-Closed Circuit Television Tax**

Section 548.061, F.S., levies a five percent tax on the total gross receipts from the sale of tickets for any match that is showed on a closed circuit telecast viewed within this state. This tax applies whether or not the telecast originates from within the state or from another state. The tax is paid by the persons who hold or show the match. They must file a written report, under oath, which states the exact number of tickets sold for the showing, the amount of gross receipts, and any other information the commission requires. The tax must be paid within 72 hours after the telecast.

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<sup>15</sup> Section 775.082, F.S., provides that the penalty for misdemeanor of the second degree is punishable by a term of imprisonment not exceeding 60 days. Section 775.083, F.S. provides that the penalty for misdemeanor of the second degree is punishable by a fine not to exceed \$500.

<sup>16</sup> Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not exceeding five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not exceeding \$5,000. Section 775.084, F.S., provides increased penalties for habitual offenders.

<sup>17</sup> For a more detailed description of the State Boxing Commission's duties, see *2012 Legislative Analysis for Amendment to SB 1252 Relating to Taxation of Closed Circuit Television*, Office of Legislative Affairs, Department of Business and Professional Regulation (January 20, 2012).

The State Boxing Commission's rule<sup>18</sup> provides a process for collecting the required information from promoters and from cable companies. The rule requires that any closed circuit telecasts from, in, or into this state must be under the auspices of a Florida-licensed promoter.<sup>19</sup> The rule specifies that the pre-event reporting requirement applies to promoters who hold, show, or telecast a closed circuit telecast that utilizes facilities other than a cable system's pay-per-view facilities.<sup>20</sup> The rule also provides that the report stating the number of tickets sold that must be submitted within 72 after the date of the telecast does not apply to telecasts that utilize a cable system's pay-per-view facilities. The department interprets the rule's reference to tickets as meaning individual pay-per-view sales and not the individual tickets sold to attend the live event.

Failure to remit or to accurately pay the tax may result in a fine of 10 percent of the tax payment due or \$25, whichever is greater, but not to exceed \$5,000.<sup>21</sup> A promoter would be prohibited from telecasting, holding, or showing any future closed circuit matches or program of matches in this state if they owe unpaid taxes and fines to the commission.<sup>22</sup>

To determine which event may be subject to the tax, department staff researches pay-per-view boxing, kickboxing, and mixed martial arts events by means of the Internet and television advertisements. The department then mails a written request to the cable systems operators requesting the number of pay-per-view orders and the purchase price of the order. Upon receipt of the report from the cable system operators, the department submits an invoice, which consists of a summary of the number of orders and tax amount owed, to the promoter that held the show of matches.<sup>23</sup> According to the department, pay per view events that are telecast into commercial locations, such as sports bars or restaurants, are not sold by the cable companies. These shows are sold directly by the promoter to the commercial location. The department does not attempt to collect the tax from promoters for their sales to these commercial locations. According to the department, it has not collected any tax from pay-per-view events that originated in Florida.

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

#### **Military Veterans-Fee Waiver**

The bill creates s. 455.213(12), F.S., to waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran who applies to the department for a license within 24 months of being honorably discharged.

#### **Continuing Education Providers**

The bill amends s. 455.2179, F.S., to allow the department to approve continuing education providers and courses without board review if the provider or course application does not require expert review or denial. Any application that requires expert review by a board must be sent to the appropriate board for review and approval or denial determination. The bill also provides that

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<sup>18</sup> Rule 61K1-1.042, F.A.C.

<sup>19</sup> See Rule 61K1-1.042(1), F.A.C. Section 548.002(20), F.S., defines a "promoter" to mean "any person, and includes any officer, director, employee, or stockholder of a corporate promoter, who produces, arranges, or stages any match involving a professional."

<sup>20</sup> Rule 61K1-1.042(2), F.A.C.

<sup>21</sup> Rule 61K1-1.042(7), F.A.C.

<sup>22</sup> *Id.*

<sup>23</sup> See Rule 61K1-1.042(6), F.A.C.

only the department can determine the content of applications and supporting documents that are submitted for approval.

### **Inactive and Delinquent Status**

The bill amends s. 455.271(6)(b), F. S., to department, in its discretion, the authority to approve applications for reinstatement of a void license if the department determines that the individual failed to comply due to illness or economic hardship. It deletes references to the department's boards to, in effect, place this authority exclusively with the department. This provision is also amended to replace the reference to "unusual hardship" hardship with the term "economic hardship."

### **Renewal and Cancellation Notices**

The bill amends s. 455.273, F.S., to permit the department to forward renewal and cancellation notices to a licensee's email address of record.

The bill amends s. 455.273, F.S., to repeal the requirement that each licensure renewal and cancellation notification must provide a conspicuous statement that a licensee may be required to complete a special purposes examination or other reactivation requirement prior to activating a license.

The bill amends s. 455.275, F. S., to require licensees to update the department with their available email address in addition to their mailing address and place of employment. It permits the department to serve required notices by email, except where service of process is required for disciplinary proceeding pursuant to s. 455.225, F.S.

### **Real Estate Schools-Distance Learning**

The bill amends s. 475.451, F.S., to permit continuing education instructors to complete their continuing education through either classroom or distance learning. It also provides that real estate schools may offer any continuing education course through distance learning if the course complies with s. 475.17(2), F.S., which authorizes the Florida Real Estate Commission to approve distance learning courses.

### **Appraisers and Appraisal Management Company**

The bill amends s. 475.611(1)(c), F.S., to revise the definition of "appraisal management company" by incorporating the provision from s. 475.6235(1), F.S., which prohibits the use of the titles "appraisal management company," "appraiser cooperative," "appraiser portal," or "mortgage technology company," or other terms unless the person is registered with the department as an appraisal management company.

The bill also amends s. 475.611(1)(d), F.S., to reference "licensed or certified appraisers" instead of "appraisers."

Section 475.611(1)(y), F.S, defines the term "subsidiary" to mean an organization that is controlled by a financial institution that is regulated by a federal agency.

The bill amends s. 475.6171(4), F.S., to repeal the provision that no certifications as an appraiser shall be issued based upon the results of national examinations that are obtained more than 24 months after the date of the examination.

The bill amends s. 475.6235(1), F.S., to delete the prohibition against the use of the titles “appraisal management company,” “appraiser cooperative,” “appraiser portal,” or “mortgage technology company,” or other terms unless the person is registered with the department as an appraisal management company. This prohibition is added by the bill to the definition of the term “appraisal management company” in s. 475.611(1)(c), F.S.

The bill also creates s. 475.6235(9), F.S., exempts a financial institution, as defined in s. 655.005, F.S., from the provisions of this section if financial institution owns or operates an internal appraiser office, business, unit, or department, or an appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a Federal agency. This would conform the provision to the exemption from state regulation provided for bank-owned appraisal management companies as provided by the Dodd Frank Act.<sup>24</sup>

The bill amends s. 475.6245, F.S., to prohibit appraisal management companies from requiring that appraisers agree to hold harmless from the liability the appraisal management company or its owners, agents, employees, or independent contractors for services performed by the management company and not the appraiser.

### **Barbering**

The bill amends s. 476.188, F. S., to permit licensed barbers to provide barbering services outside of a licensed barbershop, to include a consumer’s place of employment. It also permits barbers to provide barbering services at a residence. It deletes the condition that limits barbers from providing barbering service in a residence to when a client for reasons of ill health is unable to go to the registered barbershop.

### **Cosmetology**

The bill creates s. 477.0135(7), F. S., to provide that a cosmetology license is not required to provide makeup services to the general public.

The bill amends s. 477.019(6), F.S., to permit cosmetology applicants who are licensed in another state to qualify for a license without having to submit proof of completing their required 1200 educational hours if the state’s requirements include 1200 pre-licensure hours and passage of a written examination.

The bill amends s. 477.0263, F. S., to provide an exception from the requirement that all cosmetology services be performed in a licensed salon. The bill permits licensed cosmetologists and specialists to perform cosmetology and specialty services at special events held outside of salons if they are employed by a licensed salon and appointments for such services are made through a licensed salon. The term “special events” is not defined.

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<sup>24</sup> *Supra* at n. 6.

**Construction Contracting**

The bill amends s. 489.118, F. S., to extend the grandfather period for registered contractors to qualify for certification from November 1, 2005 to November 1, 2014.

**Pugilistic Exhibitions**

The bill amends s. 548.061, F.S., to limit the five percent tax on closed circuit television broadcasts of pugilistic matches to matches originating within this state and deletes the tax for matches that originate out-of-state.

**Effective Date**

The bill provides an effective date of October 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:****C. Government Sector Impact:**

The department estimates that it will receive an additional 1,401 applications in FY 2012-13, 701 in FY 2013-14 and 1,401 in FY 2014-15, due to the extension of the period for registered contractors to qualify for state-wide certification. This equals estimated revenues of \$573,091 in FY 2012-2013, \$286,545 in FY 2013-2014, and \$573,091 in FY 2014-2015. According to the department, to process the new applications will require an additional FTE for a Regulatory Specialist II. This is a non-recurring expense cost of \$3,870 and a recurring cost of \$48,813.

The department anticipates that all of the revenue collected pursuant to s. 548.061, F.S., would be eliminated. The department collected \$362,079.41 for FY 2009-10 and \$182,383.62 for FY 2010-11. The revenue from pay-per-view varies from month to

month due to the number of matches being scheduled by promoters. The department estimates a revenue reduction of approximately \$272,232 per year. The department has advised that this reduction in revenues may require an increase in licensing and permit fees to cover the commission's expenses.

**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.)

**CS by Regulated Industries on February 2, 2012:**

The committee substitute (CS) does not amend s. 20.165(2), F.S., to create the Florida State Boxing Commission as a division within the Department of Business and Professional Regulation (department), and to provide that the Child Labor Program and the Farm Labor Program are established under the Division of Regulation.

The CS does not amend s. 455.01, F.S., to include activities or occupations regulated by the Florida State Boxing Commission within the definition of the term "profession."

The CS amends s. 475.611(1)(y), F.S., to define the term "subsidiary."

The CS creates s. 475.6235(9), F.S., to include, within the exemption in this subsection, financial institutions that own or operate an internal appraiser office, business, unit, or department and appraisal management companies that are owned and controlled by a subsidiary of a financial institution. It uses the term "financial institution" by referencing the definition in s. 655.005, F.S., in place of the terms "bank, credit union, or other lending institution".

The CS does not amend s. 477.019, F.S., to permit applicants for licensure by endorsement to substitute work experience for educational hours when applying for a licensure as provided by rule of the Board of Cosmetology. The CS amends s. 477.019(6), F.S., to permit cosmetology applicants, if licensed in another state, to qualify for a license without having to submit proof of completing their required educational hours if the state's requirements include 1200 pre-licensure hours and passage of a written examination.

The CS amends s. 548.061, F.S., relating to the tax on matches telecast by closed circuit.

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The CS does not amend s. 548.006 (3), F.S., to give the Florida State Boxing Commission exclusive jurisdiction over all amateur mixed martial arts sanctioning organizations.

The CS does not amend s. 548.0065, F.S., to authorize the Florida State Boxing Commission to impose an advance notice requirement on amateur sanctioning organizations.

The CS does not amend s. 548.008(3) (a), F.S., to increase the penalty for participating in a prohibited match.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/05/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (12) is added to section 455.213,  
Florida Statutes, to read:

455.213 General licensing provisions.—

(12) The department shall waive the initial licensing fee,  
the initial application fee, and the initial unlicensed activity  
fee for a military veteran who applies to the department for a  
license, in a format prescribed by the department, within 24  
months after discharge from any branch of the United States



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13 Armed Forces. To qualify for this waiver, the veteran must have  
14 been honorably discharged.

15 Section 2. Subsection (1) of section 455.2179, Florida  
16 Statutes, is amended to read:

17 455.2179 Continuing education provider and course approval;  
18 cease and desist orders.—

19 (1) If a board, or the department if there is no board,  
20 requires completion of continuing education as a requirement for  
21 renewal of a license, the board, or the department if there is  
22 no board, shall approve the providers and courses for ~~of~~ the  
23 continuing education. Notwithstanding this subsection or any  
24 other provision of law, the department may approve continuing  
25 education providers or courses even if there is a board. If the  
26 department determines that an application for a continuing  
27 education provider or course requires expert review or should be  
28 denied, the department shall forward the application to the  
29 appropriate board for review and approval or denial. The  
30 approval of continuing education providers and courses must be  
31 for a specified period of time, not to exceed 4 years. An  
32 approval that does not include such a time limitation may remain  
33 in effect pursuant to the applicable practice act or the rules  
34 adopted under the applicable practice act. Notwithstanding this  
35 subsection or any other provision of law, only the department  
36 may determine the contents of any documents submitted for  
37 approval of a continuing education provider or course.

38 Section 3. Paragraph (b) of subsection (6) of section  
39 455.271, Florida Statutes, is amended to read:

40 455.271 Inactive and delinquent status.—

41 (6)



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42 (b) Notwithstanding the provisions of the professional  
43 practice acts administered by the department, ~~the board, or the~~  
44 ~~department if there is no board,~~ may, at its discretion,  
45 reinstate the license of an individual whose license has become  
46 void if the ~~board or department, as applicable,~~ determines that  
47 the individual ~~has made a good faith effort to comply with this~~  
48 ~~section but has~~ failed to comply because of illness or ~~unusual~~  
49 economic hardship. The individual must apply to ~~the board, or~~  
50 the department ~~if there is no board,~~ for reinstatement in a  
51 ~~manner prescribed by rules of the board or the department, as~~  
52 ~~applicable,~~ and shall pay an applicable fee in an amount  
53 determined by rule. The ~~board, or the department if there is no~~  
54 ~~board,~~ shall require that such individual meet all continuing  
55 education requirements prescribed by law, pay appropriate  
56 licensing fees, and otherwise be eligible for renewal of  
57 licensure under this chapter.

58  
59 This subsection does not apply to individuals subject to  
60 regulation under chapter 473.

61 Section 4. Section 455.273, Florida Statutes, is amended to  
62 read:

63 455.273 Renewal and cancellation notices.—

64 ~~(1)~~ At least 90 days before the end of a licensure cycle,  
65 the department ~~of Business and Professional Regulation~~ shall:

66 (1) ~~(a)~~ Forward a licensure renewal notification to an  
67 active or inactive licensee at the licensee's last known address  
68 of record or e-mail address provided to ~~with~~ the department.

69 (2) ~~(b)~~ Forward a notice of pending cancellation of  
70 licensure to a delinquent status licensee at the licensee's last



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71 known address of record or e-mail address provided to ~~with~~ the  
72 department.

73 ~~(2) Each licensure renewal notification and each notice of~~  
74 ~~pending cancellation of licensure must state conspicuously that~~  
75 ~~a licensee who remains on inactive status for more than two~~  
76 ~~consecutive biennial licensure cycles and who wishes to~~  
77 ~~reactivate the license may be required to demonstrate the~~  
78 ~~competency to resume active practice by sitting for a special~~  
79 ~~purpose examination or by completing other reactivation~~  
80 ~~requirements, as defined by rule of the board or the department~~  
81 ~~when there is no board.~~

82 Section 5. Subsections (1) and (2) of section 455.275,  
83 Florida Statutes, are amended to read:

84 455.275 Address of record.—

85 (1) Each licensee of the department is solely responsible  
86 for notifying the department in writing of the licensee's  
87 current mailing address, e-mail-address, and place of practice,  
88 as defined by rule of the board or the department when there is  
89 no board. A licensee's failure to notify the department of a  
90 change of address constitutes a violation of this section, and  
91 the licensee may be disciplined by the board or the department  
92 when there is no board.

93 (2) Notwithstanding any other provision of law, service by  
94 regular mail or e-mail to a licensee's last known mailing  
95 address or e-mail address of record with the department  
96 constitutes adequate and sufficient notice to the licensee for  
97 any official communication to the licensee by the board or the  
98 department except when other service is required pursuant to s.  
99 455.225.



100 Section 6. Paragraph (c) of subsection (2) of section  
101 475.451, Florida Statutes, is amended, present subsections (4)  
102 through (8) are renumbered as subsections (5) through (9),  
103 respectively, and a new subsection (4) is added to that section,  
104 to read:

105 475.451 Schools teaching real estate practice.—

106 (2) An applicant for a permit to operate a proprietary real  
107 estate school, to be a chief administrator of a proprietary real  
108 estate school or a state institution, or to be an instructor for  
109 a proprietary real estate school or a state institution must  
110 meet the qualifications for practice set forth in s. 475.17(1)  
111 and the following minimal requirements:

112 (c) "School instructor" means an individual who instructs  
113 persons in the classroom in noncredit college courses in a  
114 college, university, or community college or courses in a career  
115 center or proprietary real estate school.

116 1. Before commencing to provide such instruction, the  
117 applicant must certify the applicant's competency and obtain an  
118 instructor permit by meeting one of the following requirements:

119 a. Hold a bachelor's degree in a business-related subject,  
120 such as real estate, finance, accounting, business  
121 administration, or its equivalent and hold a valid broker's  
122 license in this state.

123 b. Hold a bachelor's degree, have extensive real estate  
124 experience, as defined by rule, and hold a valid broker's  
125 license in this state.

126 c. Pass an instructor's examination approved by the  
127 commission.

128 2. Any requirement by the commission for a teaching



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129 demonstration or practical examination must apply to all school  
130 instructor applicants.

131 3. The department shall renew an instructor permit upon  
132 receipt of a renewal application and fee. The renewal  
133 application shall include proof that the permitholder has, since  
134 the issuance or renewal of the current permit, successfully  
135 completed a minimum of 7 classroom or distance learning hours of  
136 instruction in real estate subjects or instructional techniques,  
137 as prescribed by the commission. The commission shall adopt  
138 rules providing for the renewal of instructor permits at least  
139 every 2 years. Any permit that ~~which~~ is not renewed at the end  
140 of the permit period established by the department ~~shall~~  
141 automatically reverts ~~revert~~ to involuntarily inactive status.  
142

143 The department may require an applicant to submit names of  
144 persons having knowledge concerning the applicant and the  
145 enterprise; may propound interrogatories to such persons and to  
146 the applicant concerning the character of the applicant,  
147 including the taking of fingerprints for processing through the  
148 Federal Bureau of Investigation; and shall make such  
149 investigation of the applicant or the school or institution as  
150 it may deem necessary to the granting of the permit. If an  
151 objection is filed, it shall be considered in the same manner as  
152 objections or administrative complaints against other applicants  
153 for licensure by the department.

154 (4) A real estate school may offer any course through  
155 distance learning if the course complies with s. 475.17(2).

156 Section 7. Paragraphs (c) and (d) of subsection (1) of  
157 section 475.611, Florida Statutes, are amended to read:



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158 475.611 Definitions.—

159 (1) As used in this part, the term:

160 (c) "Appraisal management company" means a person who  
161 performs appraisal management services regardless of the use of  
162 the term "appraisal management company," "appraiser  
163 cooperative," "appraiser portal," "mortgage technology company,"  
164 or other term.

165 (d) "Appraisal management services" means the coordination  
166 or management of appraisal services for compensation by:

167 1. Employing, contracting with, or otherwise retaining one  
168 or more licensed or certified appraisers to perform appraisal  
169 services for a client; or

170 2. Acting as a broker or intermediary between a client and  
171 one or more licensed or certified appraisers to facilitate the  
172 client's employing, contracting with, or otherwise retaining the  
173 appraisers.

174 Section 8. Subsection (4) of section 475.6171, Florida  
175 Statutes, is amended to read:

176 475.6171 Issuance of registration or certification.—The  
177 registration or certification of an applicant may be issued upon  
178 receipt by the board of the following:

179 (4) If required, proof of passing a written examination as  
180 specified in s. 475.616. ~~No certification shall be issued based~~  
181 ~~upon any examination results obtained more than 24 months after~~  
182 ~~the date of examination.~~

183 Section 9. Subsection (1) of section 475.6235, Florida  
184 Statutes, is amended, and subsection (9) is added to that  
185 section, to read:

186 475.6235 Registration of appraisal management companies



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187 required; exemptions.-

188 (1) A person may not engage, or offer to engage, in  
189 appraisal management services for compensation in this state or  
190 advertise or represent herself or himself as an appraisal  
191 management company, ~~or use the titles "appraisal management~~  
192 ~~company," "appraiser cooperative," "appraiser portal," or~~  
193 ~~"mortgage technology company," or any abbreviation or words to~~  
194 ~~that effect,~~ unless the person is registered with the department  
195 as an appraisal management company under this section. However,  
196 an employee of an appraisal management company is not required  
197 to obtain a separate registration.

198 (9) This section does not apply to any bank, credit union,  
199 or other lending institution that owns and operates an internal  
200 appraisal office, business unit, or department.

201 Section 10. Paragraph (v) is added to subsection (1) of  
202 section 475.6245, Florida Statutes, to read:

203 475.6245 Discipline of appraisal management companies.-

204 (1) The board may deny an application for registration of  
205 an appraisal management company; may investigate the actions of  
206 any appraisal management company registered under this part; may  
207 reprimand or impose an administrative fine not to exceed \$5,000  
208 for each count or separate offense against any such appraisal  
209 management company; and may revoke or suspend, for a period not  
210 to exceed 10 years, the registration of any such appraisal  
211 management company, or place any such appraisal management  
212 company on probation, if the board finds that the appraisal  
213 management company or any person listed in s. 475.6235(2)(f):

214 (v) Has required or attempted to require an appraiser to  
215 sign any indemnification agreement that would require the



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216 appraiser to hold harmless the appraisal management company or  
217 its owners, agents, employees, or independent contractors from  
218 any liability, damage, loss, or claim arising from the services  
219 performed by the appraisal management company or its owners,  
220 agents, employees, or independent contractors and not the  
221 services performed by the appraiser.

222 Section 11. Subsection (2) of section 476.188, Florida  
223 Statutes, is amended to read:

224 476.188 Barber services to be performed in registered  
225 barbershop; exception.—

226 (2) Pursuant to rules established by the board, barber  
227 services may be performed by a licensed barber in a location  
228 other than a registered barbershop, including, but not limited  
229 to, a nursing home, hospital, place of employment, or residence,  
230 ~~when a client for reasons of ill health is unable to go to a~~  
231 ~~registered barbershop.~~ Arrangements for the performance of  
232 barber services in a location other than a registered barbershop  
233 shall be made only through a registered barbershop.

234 Section 12. Subsection (7) is added to section 477.0135,  
235 Florida Statutes, to read:

236 477.0135 Exemptions.—

237 (7) A license is not required of any individual providing  
238 makeup services to the general public.

239 Section 13. Subsection (6) of section 477.019, Florida  
240 Statutes, is amended to read:

241 477.019 Cosmetologists; qualifications; licensure;  
242 supervised practice; license renewal; endorsement; continuing  
243 education.—

244 (6) The board shall adopt rules specifying procedures for



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245 the licensure by endorsement of practitioners desiring to be  
246 licensed in this state who hold a current active license in  
247 another state and who have met qualifications substantially  
248 similar to, equivalent to, or greater than the qualifications  
249 required of applicants from this state. For purposes of  
250 qualifying for licensure by endorsement under this subsection,  
251 work experience may be substituted for required educational  
252 hours in the amount and manner provided by board rule.

253 Section 14. Subsection (4) is added to section 477.0263,  
254 Florida Statutes, to read:

255 477.0263 Cosmetology services to be performed in licensed  
256 salon; exceptions ~~exception~~.—

257 (4) Pursuant to rules adopted by the board, any cosmetology  
258 or specialty service may be performed in a location other than a  
259 licensed salon when the service is performed in connection with  
260 a special event and is performed by a person who is employed by  
261 a licensed salon and who holds the proper license or specialty  
262 registration. An appointment for the performance of any such  
263 service in a location other than a licensed salon must be made  
264 through a licensed salon.

265 Section 15. Section 489.118, Florida Statutes, is reenacted  
266 and amended to read:

267 489.118 Certification of registered contractors;  
268 grandfathering provisions.—The board shall, upon receipt of a  
269 completed application and appropriate fee, issue a certificate  
270 in the appropriate category to any contractor registered under  
271 this part who makes application to the board and can show that  
272 he or she meets each of the following requirements:

273 (1) Currently holds a valid registered local license in one



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274 of the contractor categories defined in s. 489.105(3)(a)-(p).

275 (2) Has, for that category, passed a written examination  
276 that the board finds to be substantially similar to the  
277 examination required to be licensed as a certified contractor  
278 under this part. For purposes of this subsection, a written,  
279 proctored examination such as that produced by the National  
280 Assessment Institute, Block and Associates, NAI/Block, Experior  
281 Assessments, Professional Testing, Inc., or Assessment Systems,  
282 Inc., shall be considered to be substantially similar to the  
283 examination required to be licensed as a certified contractor.  
284 The board may not impose or make any requirements regarding the  
285 nature or content of these cited examinations.

286 (3) Has at least 5 years of experience as a contractor in  
287 that contracting category, or as an inspector or building  
288 administrator with oversight over that category, at the time of  
289 application. For contractors, only time periods in which the  
290 contractor license is active and the contractor is not on  
291 probation shall count toward the 5 years required by this  
292 subsection.

293 (4) Has not had his or her contractor's license revoked at  
294 any time, had his or her contractor's license suspended within  
295 the last 5 years, or been assessed a fine in excess of \$500  
296 within the last 5 years.

297 (5) Is in compliance with the insurance and financial  
298 responsibility requirements in s. 489.115(5).

299  
300 Applicants wishing to obtain a certificate pursuant to this  
301 section must make application by November 1, 2014 ~~2005~~.

302 Section 16. This act shall take effect October 1, 2012.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to business and professional  
regulation; amending s. 455.271, F.S.; limiting to the  
department the authority to reinstate a license that  
has become void under certain circumstances; amending  
s. 455.273, F.S.; revising the method of license  
renewal notification or notice of pending cancellation  
of licensure to include an e-mail address; deleting a  
requirement that a licensure renewal notification and  
a notice of cancellation of licensure include certain  
information regarding the applicant; amending s.  
455.275, F.S.; revising a provision relating to  
maintenance of current address-of-record information  
to include e-mail address; revising a provision  
relating to notice to a licensee to allow service of  
process by e-mail; amending s. 475.451, F.S.;  
authorizing distance learning courses as an acceptable  
alternative to classroom instruction for renewal of a  
real estate instructor permit; providing that distance  
learning courses are under the discretion of the  
school offering the real estate course; requiring  
distance learning courses to adhere to certain  
requirements; amending s. 475.611, F.S.; revising the



495654

332 definition of the terms "appraisal management company"  
333 and "appraisal management services"; amending s.  
334 475.6171, F.S.; revising requirements for the issuance  
335 of registration or certification upon receipt of  
336 proper documentation; amending s. 475.6235, F.S.;  
337 revising provisions relating to titles an appraisal  
338 management company must be registered to use;  
339 providing exemptions from registration requirements;  
340 amending s. 475.6245, F.S.; providing additional  
341 grounds for discipline of appraisal management  
342 companies, to which penalties apply; amending s.  
343 476.188, F.S.; revising the list of locations for the  
344 performance of barber services not in a registered  
345 barbershop; amending s. 477.0135, F.S.; exempting from  
346 cosmetology licensure individuals who perform makeup  
347 services to the general public; amending s. 477.019,  
348 F.S.; revising procedures for cosmetology licensure by  
349 endorsement to authorize work experience as a  
350 substitute for educational hours; amending s.  
351 477.0263, F.S.; authorizing the performance of  
352 cosmetology and specialty services in a location other  
353 than a licensed salon under certain circumstances;  
354 reenacting and amending s. 489.118, F.S.; reviving  
355 grandfathering provisions and establishing a new  
356 deadline for applications for certification of certain  
357 registered contractors; providing an effective date.



265458

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/05/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

1           **Senate Amendment to Amendment (495654) (with title**  
2 **amendment)**

3  
4           Delete lines 156 - 221

5 and insert:

6           Section 7. Paragraphs (c) and (d) of subsection (1) are  
7 amended, and paragraph (y) of section 475.611 Florida Statutes,  
8 is created, to read:

9           475.611 Definitions.-

10           (1) As used in this part, the term:

11           (c) "Appraisal management company" means a person who  
12 performs appraisal management services regardless of the use of



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13 the term "appraisal management company," "appraiser  
14 cooperative," "appraiser portal," "mortgage technology company,"  
15 or other term.

16 (d) "Appraisal management services" means the coordination  
17 or management of appraisal services for compensation by:

18 1. Employing, contracting with, or otherwise retaining one  
19 or more licensed or certified appraisers to perform appraisal  
20 services for a client; or

21 2. Acting as a broker or intermediary between a client and  
22 one or more licensed or certified appraisers to facilitate the  
23 client's employing, contracting with, or otherwise retaining the  
24 appraisers.

25 (y) "Subsidiary" means an organization that is owned and  
26 controlled by a financial institution that is regulated by a  
27 Federal financial institution regulatory agency.

28 Section 8. Subsection (4) of section 475.6171, Florida  
29 Statutes, is amended to read:

30 475.6171 Issuance of registration or certification. -The  
31 registration or certification of an applicant may be issued upon  
32 receipt by the board of the following:

33 (4) If required, proof of passing a written examination as  
34 specified in s. 475.616. ~~No certification shall be issued based~~  
35 ~~upon any examination results obtained more than 24 months after~~  
36 ~~the date of examination.~~

37 Section 9. Subsection (1) of section 475.6235, Florida  
38 Statutes, is amended, and subsection (9) (a) and (b) are added to  
39 that section, to read:

40 475.6235 Registration of appraisal management companies  
41 required; exemptions.-



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42           (1) A person may not engage, or offer to engage, in  
43 appraisal management services for compensation in this state,  
44 advertise or represent herself or himself as an appraisal  
45 management company, ~~or use the titles "appraisal management~~  
46 ~~company," "appraiser cooperative," "appraiser portal," or~~  
47 ~~"mortgage technology company," or any abbreviation or words to~~  
48 ~~that effect,~~ unless the person is registered with the department  
49 as an appraisal management company under this section. However,  
50 an employee of an appraisal management company is not required  
51 to obtain a separate registration.

52           (9) This section does not apply to:

53           (a) any financial institution, as defined in s. 655.005,  
54 that owns and operates an internal appraisal office,  
55 business unit, or department; or

56           (b) an appraisal management company that is a subsidiary  
57 owned and controlled by a financial institution, as defined in  
58 s. 655.005, regulated by a Federal financial institution  
59 regulatory agency.

60           Section 10. Paragraph (v) is added to subsection (1) of  
61 section 475.6245, Florida Statutes, to read:

62           475.6245 Discipline of appraisal management companies.-

63           (1) The board may deny an application for registration of  
64 an appraisal management company; may investigate the actions of  
65 any appraisal management company registered under this part; may  
66 reprimand or impose an administrative fine not to exceed \$5,000  
67 for each count or separate offense against any such appraisal  
68 management company; and may revoke or suspend, for a period not  
69 to exceed 10 years, the registration of any such appraisal  
70 management company, or place any such appraisal management



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71 company on probation, if the board finds that the appraisal  
72 management company or any person listed in s. 475.6235(2)(f):  
73 (v) Has required or attempted to require an appraiser to  
74 sign any indemnification agreement that would require the  
75 appraiser to hold harmless the appraisal management company or  
76 its owners, agents, employees, or independent contractors from  
77 any liability, damage, loss, or claim arising from the services  
78 performed by the appraisal management company or its owners,  
79 agents, employees, or independent contractors and not the  
80 services performed by the appraiser.

81

82

83 ===== T I T L E A M E N D M E N T =====

84 And the title is amended as follows:

85 Delete lines 332 - 333

86 and insert:

87 definition of the terms "appraisal management  
88 company", "appraisal management services", and  
89 "subsidiary"; amending s.



566892

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/05/2012 | . |       |
|            | . |       |
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The Committee on Regulated Industries (Jones) recommended the following:

1           **Senate Amendment to Amendment (495654) (with title**  
2 **amendment)**

3  
4           Delete lines 249 - 252

5 and insert:

6 required of applicants from this state. The board shall not  
7 require proof of educational hours provided that the license was  
8 issued in a state that requires 1200 or more hours of  
9 prelicensure education and passage of a written examination.

10 This paragraph does not apply to applicants who received their  
11 license in another state through an apprenticeship program.  
12



566892

13  
14  
15  
16  
17  
18  
19

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 349 - 350

and insert:

endorsement to provide exception to required proof of  
educational hours; amending s.



246586

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/05/2012 | . |       |
|            | . |       |
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The Committee on Regulated Industries (Bogdanoff) recommended the following:

1           **Senate Amendment to Amendment (495654) (with title**  
2 **amendment)**

3  
4           Delete lines 300 - 301

5 and insert:

6 Applicants wishing to obtain a certificate pursuant to this  
7 section must make application by November 1, 2014 ~~2005~~.

8           Section 16. Section 548.061, Florida Statutes, is amended  
9 to read:

10           548.061 Closed circuit television.—Each person or club that  
11 holds or shows any matches on a closed circuit telecast viewed  
12 within this state, ~~whether~~ originating within this state ~~or~~



246586

13 ~~another state~~, shall file a written report, under oath, which  
14 states the exact number of tickets sold for the showing, the  
15 amount of gross receipts, and any other information the  
16 commission requires and shall, within 72 hours after the  
17 telecast, pay a tax of 5 percent of its total gross receipts  
18 from the sale of tickets.

19  
20 ===== T I T L E   A M E N D M E N T =====

21 And the title is amended as follows:

22       Delete line 357

23 and insert:

24       registered contractors; amending s. 548.061, F.S.;

25       removing the requirement that each person or club that

26       holds or shows matches on a closed circuit telecast

27       viewed within the state, but originating within

28       another state, must file certain reports; providing an

29       effective date.

By Senator Jones

13-00725B-12

20121252\_\_

1 A bill to be entitled  
 2 An act relating to business and professional  
 3 regulation; amending s. 20.165, F.S.; expanding  
 4 divisions of the Department of Business and  
 5 Professional Regulation to include the Florida State  
 6 Boxing Commission; assigning certain programs to the  
 7 department's Division of Regulation; amending s.  
 8 455.01, F.S.; revising the definition of the term  
 9 "profession" to include the regulatory purview of the  
 10 Florida State Boxing Commission; amending s. 455.213,  
 11 F.S.; waiving initial licensing, application, and  
 12 unlicensed activity fees for certain military  
 13 veterans; amending s. 455.2179, F.S.; revising  
 14 continuing education provider and course approval  
 15 procedures; amending s. 455.271, F.S.; limiting to the  
 16 department the authority to reinstate a license that  
 17 has become void under certain circumstances; amending  
 18 s. 455.273, F.S.; revising the method of license  
 19 renewal notification or notice of pending cancellation  
 20 of licensure to include an e-mail address; deleting a  
 21 requirement that a licensure renewal notification and  
 22 a notice of cancellation of licensure include certain  
 23 information regarding the applicant; amending s.  
 24 455.275, F.S.; revising a provision relating to  
 25 maintenance of current address-of-record information  
 26 to include e-mail address; revising a provision  
 27 relating to notice to a licensee to allow service of  
 28 process by e-mail; amending s. 475.451, F.S.;  
 29 authorizing distance learning courses as an acceptable

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30 alternative to classroom instruction for renewal of a  
 31 real estate instructor permit; providing that distance  
 32 learning courses are under the discretion of the  
 33 school offering the real estate course; requiring  
 34 distance learning courses to adhere to certain  
 35 requirements; amending s. 475.611, F.S.; revising the  
 36 definition of the terms "appraisal management company"  
 37 and "appraisal management services"; amending s.  
 38 475.6171, F.S.; revising requirements for the issuance  
 39 of registration or certification upon receipt of  
 40 proper documentation; amending s. 475.6235, F.S.;  
 41 revising provisions relating to titles an appraisal  
 42 management company must be registered to use;  
 43 providing exemptions from registration requirements;  
 44 amending s. 475.6245, F.S.; providing additional  
 45 grounds for discipline of appraisal management  
 46 companies, to which penalties apply; amending s.  
 47 476.188, F.S.; revising the list of locations for the  
 48 performance of barber services not in a registered  
 49 barbershop; amending s. 477.0135, F.S.; exempting from  
 50 cosmetology licensure individuals who perform makeup  
 51 services to the general public; amending s. 477.019,  
 52 F.S.; revising procedures for cosmetology licensure by  
 53 endorsement to authorize work experience as a  
 54 substitute for educational hours; amending s.  
 55 477.0263, F.S.; authorizing the performance of  
 56 cosmetology and specialty services in a location other  
 57 than a licensed salon under certain circumstances;  
 58 reenacting and amending s. 489.118, F.S.; reviving

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59 grandfathering provisions and establishing a new  
60 deadline for applications for certification of certain  
61 registered contractors; amending s. 548.006, F.S.;  
62 expanding the power of the Florida State Boxing  
63 Commission to control pugilistic contests and  
64 exhibitions to include exclusive jurisdiction over the  
65 approval of amateur sanctioning organizations for  
66 mixed martial arts; amending s. 548.0065, F.S.;  
67 requiring an amateur sanctioning organizations to file  
68 with the commission advanced notice regarding  
69 location, date, and time of certain matches; amending  
70 s. 548.008, F.S.; revising the penalty for  
71 participating in a prohibited match; providing an  
72 effective date.

73  
74 Be It Enacted by the Legislature of the State of Florida:

75  
76 Section 1. Paragraph (1) is added to subsection (2) and  
77 paragraph (d) is added to subsection (4) of section 20.165,  
78 Florida Statutes, to read:

79 20.165 Department of Business and Professional Regulation.—  
80 There is created a Department of Business and Professional  
81 Regulation.

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

84 (1) Florida State Boxing Commission.

85 (4)

86 (d) The following programs are established within the  
87 Division of Regulation:

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88 1. Child Labor Program, created under part I of chapter  
89 450.

90 2. Farm Labor Program, created under part III of chapter  
91 450.

92 Section 2. Subsection (6) of section 455.01, Florida  
93 Statutes, is amended to read:

94 455.01 Definitions.—As used in this chapter, the term:

95 (6) "Profession" means any activity, occupation,  
96 profession, or vocation regulated by the department in the  
97 Divisions of Certified Public Accounting, Professions, Real  
98 Estate, ~~and~~ Regulation, and the Florida State Boxing Commission.

99 Section 3. Subsection (12) is added to section 455.213,  
100 Florida Statutes, to read:

101 455.213 General licensing provisions.—

102 (12) The department shall waive the initial licensing fee,  
103 the initial application fee, and the initial unlicensed activity  
104 fee for a military veteran who applies to the department for a  
105 license, in a format prescribed by the department, within 24  
106 months after discharge from any branch of the United States  
107 Armed Forces. To qualify for this waiver, the veteran must have  
108 been honorably discharged.

109 Section 4. Subsection (1) of section 455.2179, Florida  
110 Statutes, is amended to read:

111 455.2179 Continuing education provider and course approval;  
112 cease and desist orders.—

113 (1) If a board, or the department if there is no board,  
114 requires completion of continuing education as a requirement for  
115 renewal of a license, the board, or the department if there is  
116 no board, shall approve the providers and courses for ~~of~~ the

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

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117 continuing education. Notwithstanding this subsection or any  
 118 other provision of law, the department may approve continuing  
 119 education providers or courses even if there is a board. If the  
 120 department determines that an application for a continuing  
 121 education provider or course requires expert review or should be  
 122 denied, the department shall forward the application to the  
 123 appropriate board for review and approval or denial. The  
 124 approval of continuing education providers and courses must be  
 125 for a specified period of time, not to exceed 4 years. An  
 126 approval that does not include such a time limitation may remain  
 127 in effect pursuant to the applicable practice act or the rules  
 128 adopted under the applicable practice act. Notwithstanding this  
 129 subsection or any other provision of law, only the department  
 130 may determine the contents of any documents submitted for  
 131 approval of a continuing education provider or course.

132 Section 5. Paragraph (b) of subsection (6) of section  
 133 455.271, Florida Statutes, is amended to read:

134 455.271 Inactive and delinquent status.-

135 (6)

136 (b) Notwithstanding the provisions of the professional  
 137 practice acts administered by the department, ~~the board, or the~~  
 138 ~~department if there is no board,~~ may, at its discretion,  
 139 reinstate the license of an individual whose license has become  
 140 void if the ~~board or department, as applicable,~~ determines that  
 141 the individual ~~has made a good faith effort to comply with this~~  
 142 ~~section but has failed to comply because of illness or unusual~~  
 143 economic hardship. The individual must apply to ~~the board, or~~  
 144 the department ~~if there is no board,~~ for reinstatement ~~in a~~  
 145 ~~manner prescribed by rules of the board or the department, as~~

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146 ~~applicable,~~ and shall pay an applicable fee in an amount  
 147 determined by rule. The ~~board, or the department if there is no~~  
 148 ~~board,~~ shall require that such individual meet all continuing  
 149 education requirements prescribed by law, pay appropriate  
 150 licensing fees, and otherwise be eligible for renewal of  
 151 licensure under this chapter.

152  
 153 This subsection does not apply to individuals subject to  
 154 regulation under chapter 473.

155 Section 6. Section 455.273, Florida Statutes, is amended to  
 156 read:

157 455.273 Renewal and cancellation notices.-

158 ~~(1)~~ At least 90 days before the end of a licensure cycle,  
 159 the department of Business and Professional Regulation shall:

160 (1)(a) Forward a licensure renewal notification to an  
 161 active or inactive licensee at the licensee's last known address  
 162 of record or e-mail address provided to ~~with~~ the department.

163 (2)(b) Forward a notice of pending cancellation of  
 164 licensure to a delinquent status licensee at the licensee's last  
 165 known address of record or e-mail address provided to ~~with~~ the  
 166 department.

167 ~~(2)~~ Each licensure renewal notification and each notice of  
 168 pending cancellation of licensure must state conspicuously that  
 169 a licensee who remains on inactive status for more than two  
 170 consecutive biennial licensure cycles and who wishes to  
 171 reactivate the license may be required to demonstrate the  
 172 competency to resume active practice by sitting for a special  
 173 purpose examination or by completing other reactivation  
 174 requirements, as defined by rule of the board or the department

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175 ~~when there is no board.~~

176 Section 7. Subsections (1) and (2) of section 455.275,  
177 Florida Statutes, are amended to read:  
178 455.275 Address of record.—

179 (1) Each licensee of the department is solely responsible  
180 for notifying the department in writing of the licensee's  
181 current mailing address, e-mail-address, and place of practice,  
182 as defined by rule of the board or the department when there is  
183 no board. A licensee's failure to notify the department of a  
184 change of address constitutes a violation of this section, and  
185 the licensee may be disciplined by the board or the department  
186 when there is no board.

187 (2) Notwithstanding any other provision of law, service by  
188 regular mail or e-mail to a licensee's last known mailing  
189 address or e-mail address of record with the department  
190 constitutes adequate and sufficient notice to the licensee for  
191 any official communication to the licensee by the board or the  
192 department except when other service is required pursuant to s.  
193 455.225.

194 Section 8. Paragraph (c) of subsection (2) of section  
195 475.451, Florida Statutes, is amended, present subsections (4)  
196 through (8) are renumbered as subsections (5) through (9),  
197 respectively, and a new subsection (4) is added to that section,  
198 to read:

199 475.451 Schools teaching real estate practice.—

200 (2) An applicant for a permit to operate a proprietary real  
201 estate school, to be a chief administrator of a proprietary real  
202 estate school or a state institution, or to be an instructor for  
203 a proprietary real estate school or a state institution must

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204 meet the qualifications for practice set forth in s. 475.17(1)  
205 and the following minimal requirements:

206 (c) "School instructor" means an individual who instructs  
207 persons in the classroom in noncredit college courses in a  
208 college, university, or community college or courses in a career  
209 center or proprietary real estate school.

210 1. Before commencing to provide such instruction, the  
211 applicant must certify the applicant's competency and obtain an  
212 instructor permit by meeting one of the following requirements:

213 a. Hold a bachelor's degree in a business-related subject,  
214 such as real estate, finance, accounting, business  
215 administration, or its equivalent and hold a valid broker's  
216 license in this state.

217 b. Hold a bachelor's degree, have extensive real estate  
218 experience, as defined by rule, and hold a valid broker's  
219 license in this state.

220 c. Pass an instructor's examination approved by the  
221 commission.

222 2. Any requirement by the commission for a teaching  
223 demonstration or practical examination must apply to all school  
224 instructor applicants.

225 3. The department shall renew an instructor permit upon  
226 receipt of a renewal application and fee. The renewal  
227 application shall include proof that the permitholder has, since  
228 the issuance or renewal of the current permit, successfully  
229 completed a minimum of 7 classroom or distance learning hours of  
230 instruction in real estate subjects or instructional techniques,  
231 as prescribed by the commission. The commission shall adopt  
232 rules providing for the renewal of instructor permits at least

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 233 every 2 years. Any permit ~~that which~~ is not renewed at the end  
 234 of the permit period established by the department ~~shall~~  
 235 automatically reverts ~~revert~~ to involuntarily inactive status.

236  
 237 The department may require an applicant to submit names of  
 238 persons having knowledge concerning the applicant and the  
 239 enterprise; may propound interrogatories to such persons and to  
 240 the applicant concerning the character of the applicant,  
 241 including the taking of fingerprints for processing through the  
 242 Federal Bureau of Investigation; and shall make such  
 243 investigation of the applicant or the school or institution as  
 244 it may deem necessary to the granting of the permit. If an  
 245 objection is filed, it shall be considered in the same manner as  
 246 objections or administrative complaints against other applicants  
 247 for licensure by the department.

248 (4) A real estate school may offer any course through  
 249 distance learning if the course complies with s. 475.17(2).

250 Section 9. Paragraphs (c) and (d) of subsection (1) of  
 251 section 475.611, Florida Statutes, are amended to read:

252 475.611 Definitions.—

253 (1) As used in this part, the term:

254 (c) "Appraisal management company" means a person who  
 255 performs appraisal management services regardless of the use of  
 256 the term "appraisal management company," "appraiser  
 257 cooperative," "appraiser portal," "mortgage technology company,"  
 258 or other term.

259 (d) "Appraisal management services" means the coordination  
 260 or management of appraisal services for compensation by:

261 1. Employing, contracting with, or otherwise retaining one

13-00725B-12 20121252  
 262 or more licensed or certified appraisers to perform appraisal  
 263 services for a client; or

264 2. Acting as a broker or intermediary between a client and  
 265 one or more licensed or certified appraisers to facilitate the  
 266 client's employing, contracting with, or otherwise retaining the  
 267 appraisers.

268 Section 10. Subsection (4) of section 475.6171, Florida  
 269 Statutes, is amended to read:

270 475.6171 Issuance of registration or certification.—The  
 271 registration or certification of an applicant may be issued upon  
 272 receipt by the board of the following:

273 (4) If required, proof of passing a written examination as  
 274 specified in s. 475.616. ~~No certification shall be issued based~~  
 275 ~~upon any examination results obtained more than 24 months after~~  
 276 ~~the date of examination.~~

277 Section 11. Subsection (1) of section 475.6235, Florida  
 278 Statutes, is amended, and subsection (9) is added to that  
 279 section, to read:

280 475.6235 Registration of appraisal management companies  
 281 required; exemptions.—

282 (1) A person may not engage, or offer to engage, in  
 283 appraisal management services for compensation in this state or  
 284 advertise or represent herself or himself as an appraisal  
 285 management company, ~~or use the titles "appraisal management~~  
 286 ~~company," "appraiser cooperative," "appraiser portal," or~~  
 287 ~~"mortgage technology company," or any abbreviation or words to~~  
 288 ~~that effect,~~ unless the person is registered with the department  
 289 as an appraisal management company under this section. However,  
 290 an employee of an appraisal management company is not required

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291 to obtain a separate registration.

292 (9) This section does not apply to any bank, credit union,  
 293 or other lending institution that owns and operates an internal  
 294 appraisal office, business unit, or department.

295 Section 12. Paragraph (v) is added to subsection (1) of  
 296 section 475.6245, Florida Statutes, to read:

297 475.6245 Discipline of appraisal management companies.—

298 (1) The board may deny an application for registration of  
 299 an appraisal management company; may investigate the actions of  
 300 any appraisal management company registered under this part; may  
 301 reprimand or impose an administrative fine not to exceed \$5,000  
 302 for each count or separate offense against any such appraisal  
 303 management company; and may revoke or suspend, for a period not  
 304 to exceed 10 years, the registration of any such appraisal  
 305 management company, or place any such appraisal management  
 306 company on probation, if the board finds that the appraisal  
 307 management company or any person listed in s. 475.6235(2) (f):

308 (v) Has required or attempted to require an appraiser to  
 309 sign any indemnification agreement that would require the  
 310 appraiser to hold harmless the appraisal management company or  
 311 its owners, agents, employees, or independent contractors from  
 312 any liability, damage, loss, or claim arising from the services  
 313 performed by the appraisal management company or its owners,  
 314 agents, employees, or independent contractors and not the  
 315 services performed by the appraiser.

316 Section 13. Subsection (2) of section 476.188, Florida  
 317 Statutes, is amended to read:

318 476.188 Barber services to be performed in registered  
 319 barbershop; exception.—

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

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320 (2) Pursuant to rules established by the board, barber  
 321 services may be performed by a licensed barber in a location  
 322 other than a registered barbershop, including, but not limited  
 323 to, a nursing home, hospital, place of employment, or residence,  
 324 ~~when a client for reasons of ill health is unable to go to a~~  
 325 ~~registered barbershop.~~ Arrangements for the performance of  
 326 barber services in a location other than a registered barbershop  
 327 shall be made only through a registered barbershop.

328 Section 14. Subsection (7) is added to section 477.0135,  
 329 Florida Statutes, to read:

330 477.0135 Exemptions.—

331 (7) A license is not required of any individual providing  
 332 makeup services to the general public.

333 Section 15. Subsection (6) of section 477.019, Florida  
 334 Statutes, is amended to read:

335 477.019 Cosmetologists; qualifications; licensure;  
 336 supervised practice; license renewal; endorsement; continuing  
 337 education.—

338 (6) The board shall adopt rules specifying procedures for  
 339 the licensure by endorsement of practitioners desiring to be  
 340 licensed in this state who hold a current active license in  
 341 another state and who have met qualifications substantially  
 342 similar to, equivalent to, or greater than the qualifications  
 343 required of applicants from this state. For purposes of  
 344 qualifying for licensure by endorsement under this subsection,  
 345 work experience may be substituted for required educational  
 346 hours in the amount and manner provided by board rule.

347 Section 16. Subsection (4) is added to section 477.0263,  
 348 Florida Statutes, to read:

Page 12 of 15

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

13-00725B-12 20121252\_\_

349 477.0263 Cosmetology services to be performed in licensed  
350 salon; ~~exceptions~~ ~~exception~~.-

351 (4) Pursuant to rules adopted by the board, any cosmetology  
352 or specialty service may be performed in a location other than a  
353 licensed salon when the service is performed in connection with  
354 a special event and is performed by a person who is employed by  
355 a licensed salon and who holds the proper license or specialty  
356 registration. An appointment for the performance of any such  
357 service in a location other than a licensed salon must be made  
358 through a licensed salon.

359 Section 17. Section 489.118, Florida Statutes, is reenacted  
360 and amended to read:

361 489.118 Certification of registered contractors;  
362 grandfathering provisions.—The board shall, upon receipt of a  
363 completed application and appropriate fee, issue a certificate  
364 in the appropriate category to any contractor registered under  
365 this part who makes application to the board and can show that  
366 he or she meets each of the following requirements:

367 (1) Currently holds a valid registered local license in one  
368 of the contractor categories defined in s. 489.105(3)(a)-(p).

369 (2) Has, for that category, passed a written examination  
370 that the board finds to be substantially similar to the  
371 examination required to be licensed as a certified contractor  
372 under this part. For purposes of this subsection, a written,  
373 proctored examination such as that produced by the National  
374 Assessment Institute, Block and Associates, NAI/Block, Experior  
375 Assessments, Professional Testing, Inc., or Assessment Systems,  
376 Inc., shall be considered to be substantially similar to the  
377 examination required to be licensed as a certified contractor.

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378 The board may not impose or make any requirements regarding the  
379 nature or content of these cited examinations.

380 (3) Has at least 5 years of experience as a contractor in  
381 that contracting category, or as an inspector or building  
382 administrator with oversight over that category, at the time of  
383 application. For contractors, only time periods in which the  
384 contractor license is active and the contractor is not on  
385 probation shall count toward the 5 years required by this  
386 subsection.

387 (4) Has not had his or her contractor's license revoked at  
388 any time, had his or her contractor's license suspended within  
389 the last 5 years, or been assessed a fine in excess of \$500  
390 within the last 5 years.

391 (5) Is in compliance with the insurance and financial  
392 responsibility requirements in s. 489.115(5).

393  
394 Applicants wishing to obtain a certificate pursuant to this  
395 section must make application by November 1, 2014 ~~2005~~.

396 Section 18. Subsection (3) of section 548.006, Florida  
397 Statutes, is amended to read:

398 548.006 Power of commission to control professional and  
399 amateur pugilistic contests and exhibitions; certification of  
400 competitiveness of professional mixed martial arts and  
401 kickboxing matches.—

402 (3) The commission has exclusive jurisdiction over  
403 approval, disapproval, suspension of approval, and revocation of  
404 approval of all amateur sanctioning organizations for amateur  
405 boxing, ~~and~~ kickboxing, and mixed martial arts matches held in  
406 this state.

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20121252\_\_

407 Section 19. Subsection (6) is added to section 548.0065,  
408 Florida Statutes, to read:

409 548.0065 Amateur matches; sanctioning and supervision;  
410 health and safety standards; compliance checks; continuation,  
411 suspension, and revocation of sanctioning approval.-

412 (6) An amateur sanctioning organization must file with the  
413 commission advance notice, in writing, of all amateur boxing,  
414 kickboxing, and mixed martial arts matches, including the  
415 location, date, and time of the matches, at least 10 days prior  
416 to the date of the matches. For purposes of this subsection,  
417 notification may be sent via electronic mail.

418 Section 20. Paragraph (a) of subsection (3) of section  
419 548.008, Florida Statutes, is amended to read:

420 548.008 Prohibited competitions.-

421 (3) (a) Any person participating in a match prohibited under  
422 this section, knowing the match to be prohibited, commits a  
423 felony misdemeanor of the third ~~second~~ degree, punishable as  
424 provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

425 Section 21. This act shall take effect October 1, 2012.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** January 12, 2012

---

I respectfully request that **Senate Bill #1252**, relating to DBPR expansion of divisions, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

---

Senator Dennis L. Jones, D.C.  
Florida Senate, District 13

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/2/12

Meeting Date

Topic Department of Business and Professional Regulation

Bill Number 1252 (if applicable)

Name Tim Nungesser

Amendment Barcode (if applicable)

Job Title Legislative Affairs Director

Address 1940 N. Monroe St.

Phone 445-5367

Street

Tallahassee FL 32399

City

State

Zip

E-mail tim.nungesser@dbpr.state.fl.us

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

Representing DBPR

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.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-2

Meeting Date

Topic BROADCAST TAX

Bill Number SB 1252  
(if applicable)

Name JEFF JOHNSTON

Amendment Barcode 246586  
(if applicable)

Job Title Lobbyist

Address \_\_\_\_\_  
Street

\_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip

Phone 813 777-9858

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing UFC/ZUFFA ENTERTAINMENT

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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

02/02/12

Meeting Date

Topic Boxing Amendment

Bill Number 1252

Name Tim Vaccaro

Amendment Barcode 246586  
(if applicable)

Job Title Deputy Secretary, DBPR

Address 1940 N. Monroe ST

Phone 850-413-0755

Street  
Tallahassee, FL 32399  
City State Zip

E-mail tim.vaccaro@dbpr.state.fl.us

Speaking:  For  Against  Information

Representing DBPR

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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/2/12

Meeting Date

Topic Strike All Amendment

Bill Number 1252  
(if applicable)

Name Tim Nungesser

Amendment Barcode 495654  
(if applicable)

Job Title Legislative Affairs Director

Address 1940 N. Monroe St.

Phone 445-5367

Street

Tallahassee FL 32399

City

State

Zip

E-mail tim.nungesser@dbpr.state.fl.us

Speaking:  For  Against  Information

Representing DBPR

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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/2/12  
Meeting Date

Topic Amendment to Amendment

Bill Number 1252  
*(if applicable)*

Name Tim Nungesser

Amendment Barcode 566892  
*(if applicable)*

Job Title Legislative Affairs Director

Address 1940 N. Monroe St.

Phone 445-5367

Tallahassee FL 32399  
City State Zip

E-mail tim.nungesser@dbpr.state.fl.us

Speaking:  For  Against  Information

Representing DBPR

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.**

**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.)

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Prepared By: The Professional Staff of the Regulated Industries Committee

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BILL: SB 902

INTRODUCER: Senator Jones

SUBJECT: Department of the Lottery

DATE: February 2, 2012

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

|    | ANALYST    | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|------------|----------------|-----------|------------------|
| 1. | Harrington | Imhof          | RI        | <b>Favorable</b> |
| 2. |            |                | BC        |                  |
| 3. |            |                |           |                  |
| 4. |            |                |           |                  |
| 5. |            |                |           |                  |
| 6. |            |                |           |                  |

---

**I. Summary:**

The bill expands the type of vending machines that the Department of the Lottery (department) may utilize to dispense lottery tickets. Under current law, the department may only sell instant tickets or “scratch-off” tickets through a lottery vending machine. This bill authorizes the department to sell all lottery tickets through a vending machine, which includes both instant tickets and online tickets. Online tickets are draw games such as Lotto and Powerball tickets.

The bill becomes effective on July 1, 2012.

This bill substantially amends the following sections of the Florida Statutes: 24.105, 24.111, and 24.112.

**II. Present Situation:**

**Legislative Purpose and Intent**

The Department of the Lottery is authorized by Art. X, s. 15, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., provides legislative purpose and intent in regard to the lottery:

- (1) The purpose of this act is to implement s. 15, Art. X of the State Constitution in a manner that enables the people of the state to benefit from significant additional moneys for education and also enables the people of the state to play the best lottery games available.
- (2) The intent of the Legislature is:

- (a) That the net proceeds of lottery games conducted pursuant to this act be used to support improvements in public education and that such proceeds not be used as a substitute for existing resources for public education.
- (b) That the lottery games be operated by a department of state government that functions as much as possible in the manner of an entrepreneurial business enterprise. The Legislature recognizes that the operation of a lottery is a unique activity for state government and that structures and procedures appropriate to the performance of other governmental functions are not necessarily appropriate to the operation of a state lottery.
- (c) That the lottery games be operated by a self-supporting, revenue-producing department.
- (d) That the department be accountable to the Legislature and the people of the state through a system of audits and reports and through compliance with financial disclosure, open meetings, and public records laws.

Section 24.104, F.S., requires the department to operate the state lottery “so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens.” Proceeds from the sale of lottery tickets are transferred to the Educational Enhancement Trust Fund and are used to benefit public education.<sup>1</sup>

### **Lottery Games Currently Conducted**

The department currently offers a mix of online and instant games, raffles, and second chance drawings. The online games consist of the multi-state Powerball game and Florida-only games, which include the Florida Lotto, Mega Money, Fantasy 5, Play 4, and Cash 3.<sup>2</sup> The department conducts a quasi-instant ticket game called Lucky Lines in which the player selects the numbers, in a similar manner as an online game, but where the player instantly matches and could win up to \$3 million per ticket.<sup>3</sup> The department offers a millionaire raffle, Lucky 7 Raffle, and also conducts a Second Chance Drawing for prizes on non-winning tickets. In addition, the department offers instant tickets or scratch-off tickets. Currently there are over 50 instant tickets available for retailers to offer with ticket prices ranging from \$1 to \$20. During fiscal year 2009-2010, the department’s games generated nearly \$4 billion in sales, which resulted in \$1.247 billion in transfers to the Educational Enhancement Trust Fund.<sup>4</sup> Players can purchase tickets at over 13,000 retailers.

### **Player-Activated Games**

Section 24.105(9), F.S., requires the department to adopt rules governing the establishment and operation of the lottery. The rules must govern the type of games played, the sale price of tickets, the number and size of prizes, the method of selecting winning tickets, the manner of prize payment, the frequency of drawings, the number and type of locations where tickets may be purchased, the method to be used in selling tickets, the compensation for retailers, and such other

---

<sup>1</sup> See s. 24.121(2), F.S.

<sup>2</sup> Online games are games where the player picks numbers and the drawing occurs at a later time and location and which are connected to a central computer.

<sup>3</sup> Lucky Lines started on October 11, 2010, and is the most recent online game introduced by the department.

<sup>4</sup> According to the department’s report on general revenues for June 2011, the games generated over \$4 billion in ticket sales, which resulted in \$1.19 billion in transfers to the EETF for fiscal year 2010-2011. These figures have not been audited. A copy of the 2009-2010 Annual Report is available at: <http://www.flalottery.com/exptkt/annualreport09-10.pdf>

matters necessary for the efficient or economical operation of the lottery or for the convenience of the public.

Section 24.105(9)(a), F.S., provides limitations on the type of games the department may offer for play. Specifically, the name of an elected official cannot appear on the ticket for any game. Money cannot be dispensed from any electronic lottery terminal or device. The section also limits the type of player-activated machines that may be utilized.

Section 24.105(9)(a)4., F.S., provides that a player-activated machine must: be under the supervision and within the direct line of sight of the lottery retailer to ensure that the machine is monitored and only operated by persons at least 18 years of age; be capable of being electronically deactivated by the retailer to prohibit use by persons less than 18 years of age through the use of a lockout device that maintains the machine's deactivation for a period of no less than 5 minutes; and be designed to prevent its use or conversion for use in any manner other than the dispensing of instant lottery tickets. Authorized machines may dispense change to players purchasing tickets but may not be utilized for paying the holders of winning tickets of any kind.

Instant tickets can be purchased from instant ticket vending machines (ITVMs). Currently, there are approximately 1,500 ITVMs used across the state. According to the department, the ITVMs are averaging over \$3,500 in ticket sales per week for the first quarter of FY 2011-2012. The Lottery is required to lease all ITVMs.<sup>5</sup>

According to a report by the Office of Program Policy Analysis and Government Accountability:

The first 1,000 ITVMs, which were installed at the Lottery's highest selling retailers around the state [in 2009], appear to have exceeded initial sales estimates. Scratch-off sales at these retailers increased 20% compared to a statewide decrease of 1% for all other retailers. Assuming the average increase of 20% in scratch-off sales at these retailers was primarily due to vending machine sales, the Lottery achieved nearly \$12 million more in transfers to education. Moreover, the vending machines provide players convenient access to a larger selection of games; transmit sales data in real-time, allowing the Lottery to better track ticket sales; and improve retailer operational efficiency.<sup>6</sup>

Under current law, online games cannot be sold in a vending machine. Machines that sell both online and instant tickets are often referred to as Full Service Vending Machines (FSVMs). Approximately 22 states offer FSVMs through their lotteries.<sup>7</sup>

---

<sup>5</sup> Section 24.111(2)(h), F.S.

<sup>6</sup> *Lottery Profits Decline; Options Available to Enhance Transfers to Education*, Report No. 11-12, Office of Program Policy Analysis and Government Accountability, Florida Legislature, March 2011. A copy of the report can be viewed at: <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1112rpt.pdf>

<sup>7</sup> See *Selected Game and Sales Methods Offered by other U.S. Lotteries*, OPPAGA Research Memorandum, September 29, 2011. A copy of the memorandum is on file with the committee.

### **Seminole Gaming Compact Provisions Related to Lottery Vending Machines**

The Gaming Compact between the State of Florida (state) and the Seminole Tribe of Florida (Tribe) provides the Tribe the exclusive right to conduct specified types of gaming in return for revenue sharing payments by the Tribe to the state.<sup>8</sup> If the state violates the exclusivity provisions of the Gaming Compact, the Tribe may be able to reduce or cease payments to the state.<sup>9</sup> The Gaming Compact limits lottery game distribution options, but provides an exception for three types of lottery vending machines (LVMs). The three types of allowable lottery vending machines are:<sup>10</sup>

- A machine to dispense pre-printed paper instant lottery tickets, but that does not read or reveal the results of the ticket, or allow a player to redeem any ticket. The machine, or any machine or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. This does not preclude the use of casino game themes or titles on such tickets or signage or advertising displays on the machines; or
- A machine to dispense pre-determined electronic instant lottery tickets that displays an image of the ticket on a video screen on the machine and the player must touch the image of the ticket on the video screen to reveal the outcome of the ticket, provided the machine does not permit a player to redeem winnings, does not make use of video reels or mechanical reels or simulate the play of any casino game, and the lottery retailer is paid the same amount as would be paid for the sale of paper instant lottery tickets; or
- A machine to dispense a paper lottery ticket with numbers selected by the player or randomly by the machine. The machine does not reveal the winning numbers and the winning numbers are selected at a subsequent time and different location through a drawing by the Florida Lottery. The machine, or any machines or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. The machine may not be used to redeem a winning ticket. This does not preclude the use of casino game themes or titles for signage or advertising displays on the machine.

In addition, the compact limits the numbers of LVMs that may be located at any one location to 10 and further restricts the usage of LVMs that dispense electronic tickets to provide that no LVM that dispenses electronic instant tickets may be installed at any licensed pari-mutuel facility.<sup>11</sup>

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

The bill requires the department to adopt rules governing the operation of full service vending machines (FSVMs). Full service vending machines are player-operated machines that dispense online lottery tickets, instant lottery tickets, or both online and instant lottery tickets.

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<sup>8</sup> *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 (hereinafter Gaming Compact).

<sup>9</sup> *Id.* See Part XII, Gaming Compact.

<sup>10</sup> *Id.* See Parts III.F. and XII.B.8., Gaming Compact.

<sup>11</sup> *Id.* See Part XII.B.8, Gaming Compact.

The bill relocates and amends the current requirements for ITVMs. The bill permits a vending machine to dispense online tickets, instant tickets, or both online and instant tickets. The requirements for a FSVM remain substantially the same as in current law for ITVMs. However, the bill does add an additional provision that prohibits the vending machine, or any machine or device linked to the vending machine, from including or making use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. The bill specifies that this new requirement does not preclude the use of casino game themes or titles on such tickets or signage or advertising displays on the machines.

In addition, the bill amends the requirement that the department must lease all ITVMs to instead provide that the department must lease all vending machines that dispense online lottery tickets or instant lottery tickets.

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 bill could increase the number of retailers that offer lottery products. In addition, players could purchase all types of lottery tickets through a vending machine instead of completing player slips and waiting for retailers to input the numbers into the system. According to the department, retail customers increasingly prefer self-service options in their purchasing.

C. Government Sector Impact:

Expanding the type of player activated gaming machines may result in an increase in lottery retailers that offer lottery games. At least one retailer has indicated that unless they can utilize FSVMs, they will not sell lottery tickets in their store. An increase in

vendors and tickets sold will increase the transfer of funds to the Educational Enhancement Trust Fund.

The Lottery estimates that the cost for one FSVM would be \$700 per month, and has requested funding for 350 FSVMs in the department's FY 2012-13 Legislative Budget Request.

The Revenue Estimating Conference held on November 3, 2011, estimated that, with the costs of leasing the 350 FSVM's accounted for, the additional revenue to the Educational Enhancement Trust Fund would be \$8.1 million for the first partial year of operation, and \$21 million beginning in FY 2012-2013.<sup>12</sup>

**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.

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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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<sup>12</sup> A copy of the Revenue Estimating Conference analysis is available online at:  
<http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/impact1103.pdf> (last viewed January 27, 2012).

By Senator Jones

13-00763A-12

2012902\_\_

A bill to be entitled

An act relating to the Department of the Lottery;  
amending s. 24.105, F.S.; deleting provisions  
authorizing the use of player-activated machines that  
dispense instant lottery game tickets; amending s.  
24.111, F.S.; requiring the department to lease  
vending machines that dispense online lottery tickets  
or instant lottery tickets; amending s. 24.112, F.S.;  
authorizing the use of vending machines to dispense  
online lottery tickets or instant lottery tickets;  
specifying requirements for the vending machines;  
specifying requirements for retailers that use the  
vending machines; providing an effective date.

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

Section 1. Paragraph (a) of subsection (9) of section  
24.105, Florida Statutes, is amended to read:

24.105 Powers and duties of department.—The department  
shall:

(9) Adopt rules governing the establishment and operation  
of the state lottery, including:

(a) The type of lottery games to be conducted, except that:

1. ~~The~~ No name of an elected official may not shall appear  
on the ticket or play slip of any lottery game or on any prize  
or on any instrument used for the payment of prizes, unless such  
prize is in the form of a state warrant.

2. ~~No~~ Coins or currency may not shall be dispensed from any  
electronic computer terminal or device used in any lottery game.

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2012902\_\_

3. Other than as expressly provided in s. 24.112(15)  
~~subparagraph 4~~, a ~~no~~ terminal or device may not be used for any  
lottery game which may be operated solely by the player without  
the assistance of the retailer.

~~4. The only player-activated machine which may be utilized  
is a machine which dispenses instant lottery game tickets  
following the insertion of a coin or currency by a ticket  
purchaser. To be authorized a machine must: be under the  
supervision and within the direct line of sight of the lottery  
retailer to ensure that the machine is monitored and only  
operated by persons at least 18 years of age; be capable of  
being electronically deactivated by the retailer to prohibit use  
by persons less than 18 years of age through the use of a  
lockout device that maintains the machine's deactivation for a  
period of no less than 5 minutes; and be designed to prevent its  
use or conversion for use in any manner other than the  
dispensing of instant lottery tickets. Authorized machines may  
dispense change to players purchasing tickets but may not be  
utilized for paying the holders of winning tickets of any kind.  
At least one clerk must be on duty at the lottery retailer while  
the machine is in operation. However, at least two clerks must  
be on duty at any lottery location which has violated s.  
24.1055.~~

Section 2. Paragraph (h) of subsection (2) of section  
24.111, Florida Statutes, is amended to read:

24.111 Vendors; disclosure and contract requirements.—

(2) The department shall investigate the financial  
responsibility, security, and integrity of each vendor with  
which it intends to negotiate a contract for major procurement.

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59 Such investigation may include an investigation of the financial  
60 responsibility, security, and integrity of any or all persons  
61 whose names and addresses are required to be disclosed pursuant  
62 to paragraph (a). Any person who submits a bid, proposal, or  
63 offer as part of a major procurement must, at the time of  
64 submitting such bid, proposal, or offer, provide the following:

65 (h) The department shall lease all ~~instant ticket~~ vending  
66 machines that dispense online lottery tickets or instant lottery  
67 tickets.

68  
69 The department shall not contract with any vendor who fails to  
70 make the disclosures required by this subsection, and any  
71 contract with a vendor who has failed to make the required  
72 disclosures shall be unenforceable. Any contract with any vendor  
73 who does not comply with such requirements for periodically  
74 updating such disclosures during the tenure of such contract as  
75 may be specified in such contract may be terminated by the  
76 department. This subsection shall be construed broadly and  
77 liberally to achieve the ends of full disclosure of all  
78 information necessary to allow for a full and complete  
79 evaluation by the department of the competence, integrity,  
80 background, and character of vendors for major procurements.

81 Section 3. Subsection (15) is added to section 24.112,  
82 Florida Statutes, to read:

83 24.112 Retailers of lottery tickets.—

84 (15) A vending machine may be used to dispense online  
85 lottery tickets, instant lottery tickets, or both online and  
86 instant lottery tickets.

87 (a) The vending machine must:

13-00763A-12 2012902\_\_

88 1. Dispense a lottery ticket after a purchaser inserts a  
89 coin or currency in the machine.

90 2. Be capable of being electronically deactivated for a  
91 period of 5 minutes or more.

92 3. Be designed to prevent its use for any purpose other  
93 than dispensing a lottery ticket.

94 (b) In order to be authorized to use a vending machine to  
95 dispense lottery tickets, a retailer must:

96 1. Locate the vending machine in the retailer's direct line  
97 of sight to ensure that purchases are made only by persons at  
98 least 18 years of age.

99 2. Ensure that at least one employee is on duty when the  
100 vending machine is available for use. However, if the retailer  
101 has previously violated s. 24.1055, at least two employees must  
102 be on duty when the vending machine is available for use.

103 (c) A vending machine that dispenses a lottery ticket may  
104 dispense change to a purchaser but may not be used to redeem any  
105 type of winning lottery ticket.

106 (d) The vending machine, or any machine or device linked to  
107 the vending machine, may not include or make use of video reels  
108 or mechanical reels or other video depictions of slot machine or  
109 casino game themes or titles for game play. This does not  
110 preclude the use of casino game themes or titles on such tickets  
111 or signage or advertising displays on the machines.

112 Section 4. This act shall take effect July 1, 2012.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** December 9, 2011

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I respectfully request that **Senate Bill #902**, relating to lottery, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

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Senator Dennis L. Jones, D.C.  
Florida Senate, District 13

# CourtSmart Tag Report

Room: EL 110  
Caption: Senate Regulated Industries Committee

Case:

Type:  
Judge:

Started: 2/2/2012 3:20:02 PM

Ends: 2/2/2012 4:25:07 PM Length: 01:05:06

3:20:05 PM Meeting called to order  
3:20:15 PM Roll call  
3:20:29 PM SB 654 - Senator Hays  
3:20:40 PM Paul Runk to present the bill  
3:20:58 PM Strike-all Amendment #520502  
3:21:43 PM Amendment - Adopted  
3:22:46 PM Senator Sachs moves a CS  
3:22:58 PM CS/SB 654 - Passes  
3:23:24 PM SB 986 - Senator Altman  
3:23:36 PM Senator Altman to explain the bill  
3:25:58 PM Senator Bogdanoff questioning  
3:26:37 PM Michael Martinez, DBPR, presenting  
3:30:36 PM Senator Sachs questioning  
3:33:30 PM Marc Dunbar, Shufflemaster, Bally Tech., Gulfstream Park - presenting  
3:38:39 PM Senator Sachs questioning  
3:40:38 PM Senator Altman questioning  
3:41:04 PM Mr. Martinez responding  
3:42:23 PM Mr. Dunbar responding to Senator Altman  
3:44:41 PM  
3:49:33 PM SB 986 - TP  
3:49:53 PM SB 1286 - Senator Thrasher  
3:50:05 PM Senator Thrasher to explain the bill  
3:51:56 PM Amendment #184246 - Senator Thrasher  
3:52:31 PM Amendment - Adopted  
3:53:12 PM Senator Diaz de la Portilla questioning  
3:53:41 PM Senator Sachs moves a CS  
3:53:55 PM CS/SB 1286 - Passes  
3:54:24 PM Senator Sachs takes the Chair  
3:54:36 PM SB 1120 - Senator Jones  
3:54:59 PM Senator Jones to explain the bill  
3:56:30 PM SB 1120 - Passes  
3:56:54 PM SB 1252 - Senator Jones  
3:57:08 PM Senator Jones to explain the bill  
3:57:16 PM Strike-all Amendment #495654 - Senator Jones  
3:59:11 PM Amendment to the Amendment - Senator Bogdanoff  
4:01:35 PM Senator Rich questioning  
4:01:58 PM Senator Altman questioning  
4:07:13 PM Senator Diaz de la Portilla questioning  
4:11:31 PM Tim Vaccaro, DBPR  
4:12:58 PM Jeff Johnston, UFC/Zuffa Entertainment  
4:14:15 PM Senator Altman commenting  
4:15:47 PM Senator Jones commenting  
4:16:45 PM Senator Bogdanoff to close on the amendment  
4:17:12 PM Senator Jones commenting  
4:17:46 PM Senator Bogdanoff commenting  
4:18:41 PM Vote on the Amendment to the Amendment - Passes  
4:19:04 PM Amendment to the Amendment #265458 - Senator Jones  
4:20:01 PM Amendment to the Amendment - Passes  
4:20:16 PM Amendment to the Amendment #566892 - Senator Jones  
4:20:51 PM Amendment to the Amendment - Passes  
4:21:10 PM Tim Nungesser, DBPR  
4:22:15 PM Amendment to the Amendment - #495654 Passes

**4:22:41 PM** CS/SB 1252 - Passes  
**4:22:58 PM** SB 902 - Senator Jones  
**4:23:09 PM** Senator Jones to explain the bill  
**4:23:56 PM** SB 902 - Passes  
**4:24:29 PM** Meeting adjourned