

The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**

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

**MEETING DATE:** Wednesday, September 21, 2011  
**TIME:** 9:00 —10:30 a.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

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

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
		Welcome and Opening Remarks from the Chairman	
		Overview of Interim studies by Booter Imhof, Staff Director	
		Presentation by Secretary Ken Lawson and his goals for the Department of Business and Professional Regulation and an update on departmental issues	

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**INTERIM ISSUE BRIEF TITLE:*****Review Options for New Lottery Games and Game Distribution***

**DATE DUE:** September 1, 2011

**PROJECT NUMBER:** 2012-220

**ISSUE DESCRIPTION and BACKGROUND:**

Senator Diaz de la Portilla requested that the Senate professional staff of the Regulated Industries Committee review of the potential for new games for the Florida Department of Lottery, including fast keno and multi-state games such as Mega Millions. Senator Diaz de la Portilla further requested a review of whether implementing these new games would have an impact on the revenue sharing from the Seminole Indian Compact.

The Florida Department of Lottery (department) is authorized to supervise and conduct the operation of the state lottery under ch. 24, F.S. Currently, the department operates both online games (games where the player picks numbers and the drawing occurs at a later time and location and are connected to a central computer) and instant games (paper scratch-off tickets). The department conducts the state online games and also has joined the multi-state lottery game Powerball. Players can purchase tickets at one of over 13,000 retailers. Instant tickets can also be purchased from an instant ticket vending machine. Currently, there are approximately 1,500 instant ticket vending machines used across the state.

In 2010, the state entered into a compact with the Seminole Indian Tribe of Florida, granting the Tribe substantial exclusivity on Class III and casino-style gaming in exchange for revenue sharing with the State. The Compact specified that if an expansion of gaming occurs, Tribal payments may be reduced or may cease. However, the Compact also carved out exceptions for certain activities and for limited types of expansion. For example, the Compact provides that games authorized by ch. 24, F.S., as of February 1, 2010, have no impact on revenue sharing from the Tribe. In addition, the operation of "lottery vending machines," as defined in the compact, has no impact on revenue sharing payments. The department has not implemented the lottery vending machines defined in the compact.

In March 2011, the Office of Program Policy Analysis and Government Accountability (OPPAGA) issued Report 11-12, *Lottery Profits Decline; Options Available to Enhance Transfers to Education*. The OPPAGA report suggested that the department expand the retailer network. One option for such an expansion would be to sell all types of lottery tickets, not just instant tickets, through the use of a lottery vending machine. The OPPAGA report also discussed an expansion of the types of lottery games offered as a way to attract new players and generate more revenue for the department. Some games suggested include fast keno, Mega Millions, video lottery terminals, and higher priced instant ticket games. Throughout the OPPAGA report, the issues of statutory authorization and revenue sharing with the Tribe are raised as potential issues that would need to be addressed for any additional games or new methods for game distribution.

**OBJECTIVE:**

To determine whether there are additional lottery games or distribution mechanisms that are currently authorized under law and permitted under the compact without an impact on revenue sharing payments. If not, the report will determine what impact any expansion would have on the revenue sharing payments and what, if any, legislative action would be necessary for such authorization.

**METHODOLOGY:**

Senate professional staff will review and analyze the OPPAGA report, the Seminole Indian Compact, and ch. 24, F.S., to determine what additional lottery games are currently permitted under ch. 24, F.S., and to determine whether conducting those games would have any impact on the compact. Staff will review the Seminole Indian Compact to determine if there are statutory changes required to implement the specified games in the compact that could be implemented without an impact on state revenue sharing. Staff will contact the Florida Department of Lottery, other state lotteries, and other interested parties to ascertain which, if any, new games are available or of interest to the department for potential expansion.

**INTERIM ISSUE BRIEF TITLE:*****Compulsive Gambling Programs for College Student Athletes and Military Veterans***

**DATE DUE:** September 1, 2011

**PROJECT NUMBER:** 2012-221

**ISSUE DESCRIPTION and BACKGROUND:**

Senator Hill requested that Senate professional staff of the Regulated Industries Committee review the compulsive gambling programs available for college student athletes and Florida military veterans. The primary organization that is involved in addressing compulsive gambling in Florida is the Florida Council on Compulsive Gambling, Inc. The council is a not-for-profit organization under 26 U.S.C. 501(c)(3) that provides information, resource referrals, and support services for problem gamblers, their families, employers and others. It also offers prevention and education programs, as well as professional training for mental health, addiction and medical practitioners, gambling operators, governments, businesses, academia, law enforcement authorities, faith based organizations, and others.

Senator Jones, the Chair of the Senate Regulated Industries Committee requested the council to make a presentation on its programs before the committee during the 2011 Regular Legislative Session. Senator Hill requested this interim study in response to the council's presentation and responses to the Senator's inquiries regarding programs for both college student athletes and military veterans.

In response to Senator Hill's questions, the council indicated that it has worked with the Florida High School Coaches Association to address compulsive gambling in the student athlete population and it has found some coaches very supportive of its program and some coaches not receptive at all. The council has wanted to implement a compulsive gambling program across the state, but was not successful. The council noted an example of a high school athlete that was both Florida Mr. Football and Mr. Basketball in the same year and apparently had a gambling problem in high school that was not addressed. When he attended a state university, the athlete's problem gambling became excessive and resulted in him losing his scholarship and ruining a promising athletic career. According to the council, student athletes, because of their competitive nature are at high risk to become problem gamblers.

In addition, the council has tried to penetrate the needs of the veterans' population. The need has been identified by research and calls to the council's hotline, but coordination and support with different segments at the state level has been unsuccessful. It has also been a problem with access to the organizations that serve the veterans. The highest level of prevalence for gambling was for the veteran population according to 2001 Statewide Prevalence Study.

**OBJECTIVE:**

To ascertain what compulsive gambling programs, if any, are available to college student athletes and military veterans in the State of Florida.

**METHODOLOGY:**

Senate professional staff will conduct research regarding the status of compulsive gambling in the college student athlete and veteran population. Staff will review programs and referrals provided by the Florida Council on Compulsive Gambling, as well as other studies and reports prepared in other states to ascertain the extent of the problem and any compulsive gambling programs available. The National Collegiate Athletic Association and the major institutions with collegiate sports programs will be

contacted regarding what programs have been developed by these entities. Veterans' groups as well as state and federal agencies will be contacted to ascertain if any programs have been developed for military veterans regarding compulsive gambling, including to what extent compulsive gambling is a problem in the veteran population.

**INTERIM PROJECT TITLE:*****Review Regulation of Irrigation Contractors***

**DATE DUE:** September 1, 2011

**PROJECT NUMBER:** 2012- 136

**ISSUE DESCRIPTION and BACKGROUND:**

Senator Thrasher requested that Senate professional staff of the Regulated Industries Committee review the need to regulate irrigation contractors. Irrigation contractors are involved in various types of landscape projects, including planted landscape irrigation, and other cooling effects, erosion and dust control, athletic field safety, tourism aesthetics, property and community values, quality of life, irrigation of crops, and wildlife food and habitat protection. Consumers of irrigation services include homeowners, businesses, and local governments.

According to the Florida Irrigation Society, poor quality irrigation systems create wasted water use, wasted electricity, runoff and increased use of fertilizer, pesticides, and herbicides, and increased landscape waste. The society also noted that over 90% of potable water comes from Florida's groundwater supplies. The society maintains that groundwater supplies are economical to develop but are inadequate to supply the growing demand for water. Expensive alternative water supply development and more efficient use of existing water resources are necessary to sustain economic growth and Florida's natural resources. Approximately half of all Florida public water supplies are used for landscape irrigation. The Florida Department of Environmental Protection, Water Management Districts and water utilities have targeted landscape irrigation for significant reduction in water consumption.

The society also maintains that irrigation contractors face a challenging regulatory environment. It stated in its presentation to the Senate Regulated Industries Committee that irrigation contractors must maintain licenses with each county and municipality that requires a license and that there is no uniformity. Improper construction of landscape irrigation can lead to economic harm through the following: financial harm to consumers, loss of landscape material, potential health hazards due to backflow contamination, distribution of water-borne pathogens, building, and infrastructure damage, unsafe roadways due to overspray and undermining, water and energy waste, and excess demand on aquifers, surface water, and water utilities.

**OBJECTIVE:**

To ascertain, using the criteria in s. 11.62, F.S., whether irrigation contractors should be subject to statewide regulation.

**METHODOLOGY:**

Senate professional staff will contact appropriate professional organizations, state and local agencies and other interested persons to ascertain the need for statewide regulation of irrigation contractors.

**INTERIM PROJECT TITLE:**

*Review Internet Cafes Used for Electronic Game Promotions*

**DATE DUE:** October 1, 2011

**PROJECT NUMBER:** 2012-137

**ISSUE DESCRIPTION and BACKGROUND:**

In November 2008, the Senate Committee on Regulated Industries issued *Interim Report 2009-123: Review of Electronic Gaming Exceptions for Adult Arcades and Game Promotions*. The report was initiated in response to complaints and inquiries regarding whether the adult arcades and electronic game promotions/sweepstakes/Internet cafes (generally known as “Internet Cafes”) are operating legally under ch. 849, F.S., the chapter that governs gambling in the state.

Senator Dean requested that the Senate professional staff of the Regulated Industries Committee review the game promotion situation and tax structure again. Agriculture Commissioner Putnam was quoted in a recent newspaper article indicating that the legal status of the electronic game promotions needed to be clarified by the Legislature.

Section 849.094, F.S., requires that all game promotions register with the Department of Agriculture and Consumer Services (DACCS) if the prizes offered are greater than \$5,000. This section also imposes filing, posting, and bonding requirements on operators of game promotions.

The report found that Internet Cafes offer electronic game promotions in connection with the sale of Internet time or prepaid phone cards, which utilize machines that simulate gambling devices. Verifying that such devices are utilized to operate a game promotion rather than operate an illegal gambling device has proved problematic for law enforcement. The report indicated that law enforcement was seeking clarification as to what constituted a legal game promotion.

In the three years since the publication of *Interim Report 2009-123*, the number of businesses operating Internet Cafes has increased significantly. In addition, a number of legal issues have been raised concerning ambiguities in the game promotion statute. First, it is unclear how the provisions apply to non-profit organizations. Does the statute provide an exception to the requirements of s. 849.094, F.S., for non-profit groups or does the statute exclude those groups from conducting game promotions? Second, there have been issues raised concerning consideration and whether customers of Internet Cafes are purchasing sweepstakes entries.

In response to the increase in the number of Internet Cafes and concerns expressed by constituents, local governments have or are considering enacting ordinances concerning electronic game promotions. For example, Seminole County enacted an ordinance which bans “simulated gambling devices” in the county. The ordinance was challenged by an operator of an Internet Café, Allied Veterans of the World, Inc. On May 6, 2011, the U.S. District Court, Middle District of Florida, denied Allied Veterans’ request to enter a preliminary injunction against the county to stop the implementation of the new ordinance in *Allied Veterans of the World, Inc. and Phone-Sweeps, LLC. v. Seminole County, Florida*, F.Supp.2d (M.D. Fla 2011). In contrast to the ban in Seminole County, Jacksonville passed an ordinance that imposed additional regulations on Internet Cafes. In addition, at least one state, North Carolina, has implemented legislation to ban Internet Cafes.

Three bills were introduced during the 2011 legislative session concerning electronic game promotions. SB 222 by Senator Fasano proposed to require electronic game promotions that have a prize pot of \$1 or greater to register with the DACS, purchase a surety bond or maintain a prize escrow account, post their rules, and meet other statutory requirements. In contrast, SB 576 by Senator Oelrich and HB 217 by Representative Plakon proposed to ban all electronic game promotions. In addition, Senate professional committee staff met with representatives from some of the operators of electronic game promotions. Representatives of the industry recommended that all electronic based game promotions that utilize simulated gambling register with DACS. Some representatives further recommended that the statutory bond be increased and that DACS be given the authority to certify electronic game promotion software.

**OBJECTIVE:**

The objectives of this issue brief are to:

- Update the research concerning electronic game promotions presented in *Interim Report 2009-123: Review of Electronic Gaming Exceptions for Adult Arcades and Game Promotions*;
- Identify ambiguities in the game promotion statute;
- Identify local ordinances that either regulate or restrict the operation of electronic game promotions and review related legal challenges;
- Review 2011 Legislation that proposed to either regulate or restrict businesses operating as electronic game promotions; and
- Identify related laws in other states.

**METHODOLOGY:**

Senate professional staff will conduct the research necessary to update the electronic game promotion portion of the 2009 interim report; survey local governments to determine whether they have or are considering regulating or restricting the operation of electronic game promotions; review related legal challenges; and research related laws in other states.

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Florida Department of  
**Business**  
**Professional**  
Regulation



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License efficiently. Regulate fairly.

**Ken Lawson**  
**Secretary**

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# Guiding Principles

- Smart De-Regulation
  - Working to identify and remove rules and business processes that get in the way of businesses.
- Fair But Strong Enforcement
  - The goal is always to get businesses into compliance. Enforcement will be strong but fair, and our licensees deserve to have a voice in the enforcement process.
- Open Door Policy
  - I have met with and will continue to meet with our licensees on a regular basis.

# Overview

## Mission

- License efficiently. Regulate fairly.

## JURISDICTION

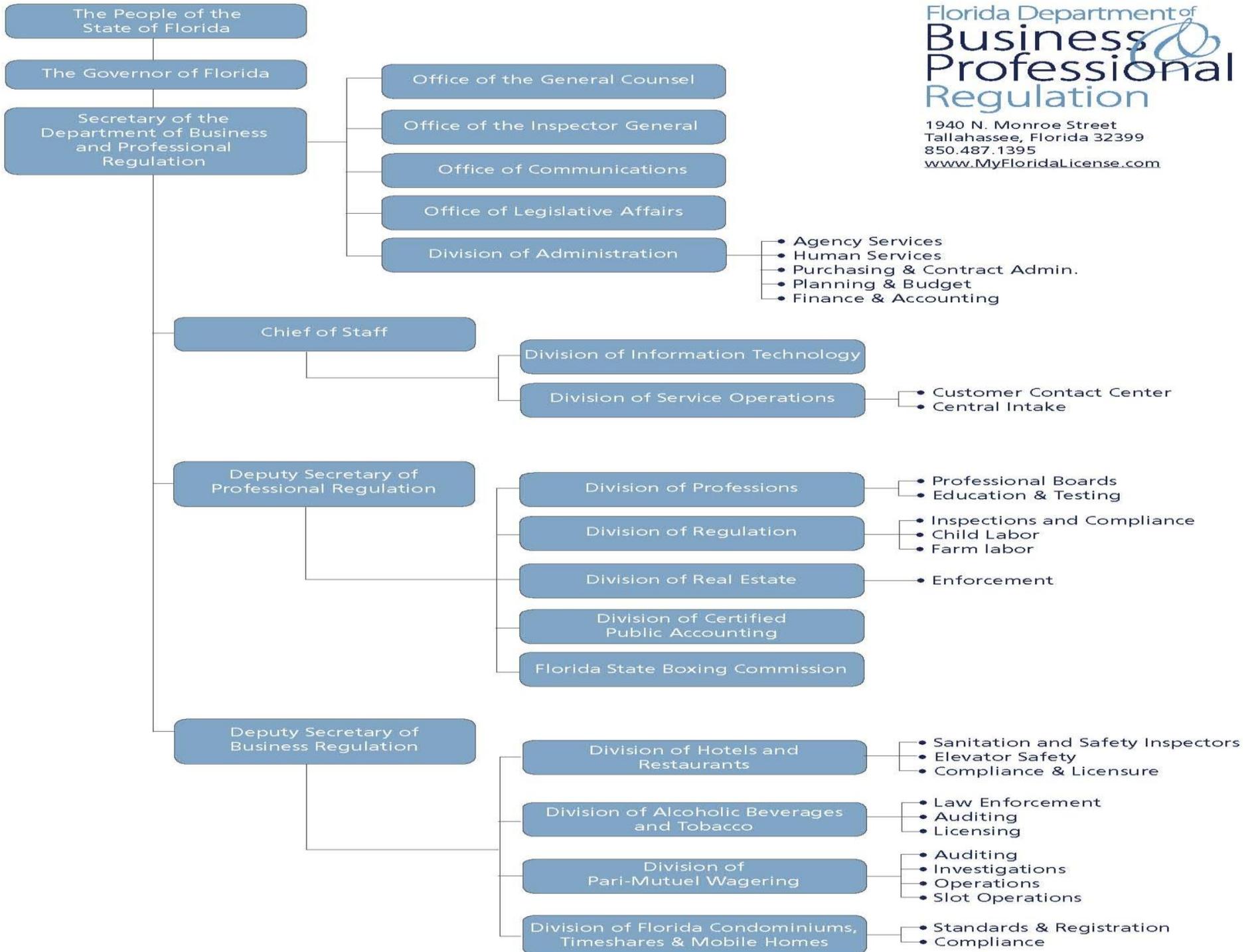
- Most non-healthcare professions and many businesses.

## STRUCTURE

- Business Regulation
- Professional Regulation
- Administration, Financial, and Support Services

# Department Facts

- **CUSTOMERS:** More than one million licensed businesses and professionals
- **FY10-11 APPROVED BUDGET:** \$127.3 million
- **STAFFING:** 1,582.75 FTE
- **REVENUE SOURCES:**
  - 100% State Trust Funded.
  - Collect approximately \$2.35 billion in taxes and fees that are contributed to General Revenue and other agencies.



# **Jurisdiction: Businesses**

- **Alcoholic Beverages and Tobacco**
- **Condominiums and Cooperatives**
- **Hotels and Restaurants**
- **Mobile Homes**
- **Pari-Mutuel Wagering**
- **Timeshares**
- **Yacht and Ships**
- **Drug/cosmetics manufacturers & wholesale distributors (Oct. 1)**
- **Health care clinics (Oct. 1)**

# Jurisdiction: Professions

- Architecture & Interior Design
- Asbestos Contractors & Consultants
- Athlete Agents
- Auctioneers
- Barbers
- Boxing, Kick Boxing & Mixed Martial Arts
- Building Code Administrators & Inspectors
- **Building Commission (Oct 1)**
- Certified Public Accounting
- Child Labor
- Community Association Managers & Firms
- Construction Industry
- Cosmetology
- Electrical Contractors
- Employee Leasing Companies
- Farm Labor
- Geologists
- Harbor Pilots
- Home Inspectors
- Labor Organizations
- Landscape Architecture
- Mold-Related Services
- Real Estate
- Real Estate Appraisers
- Talent Agents
- Veterinary Medicine

# **Building Commission**

- **Transfers from DCA to DBPR October 1st.**
- **Physical transfer of personnel and equipment to DBPR February 1st.**
- **Will be administratively housed under Division of Professions.**
  - **The Florida Building Commission will be housed in the same division as our construction-related professions, creating a greater opportunity for enhanced communications regarding both code enforcement and educational issues.**

# Drugs, Devices, and Cosmetics

- **Transfers from DOH to DBPR October 1<sup>st</sup>.**
  - **Mission: To safeguard Florida citizenry from injury by use of adulterated or contaminated drugs, drug ingredients & cosmetics, by administering the Florida Drug and Cosmetic Act (Chapter 499, F.S.)**
  - **33 Positions (including 11 drug inspectors (pharmacists) )**
  - **3 Sub-units**
    - Compliance & Enforcement
    - Licensing
    - Legal (Legal will be supervised by the Office of General Counsel)
  - **Drug Wholesaler Distribution Advisory Council – provides input to department re: administration of Chapter 499, F.S., including rules.**
  - **Physical transfer of personnel and equipment (9/23/11 – 10/7/11)**

# Seminole Compact

- **The Division of Pari-Mutuel Wagering began receiving monthly compact payments in August 2010.**
  - **2010/2011 \$140.42 million**
  - **2011/2012 \$150 million (estimated)**
  - **2012/2013 \$221.2 million (estimated)**
  - **2013/2014 \$233 million (estimated)**
  - **2014/2015 \$233.92 million (estimated)**
  - **2015 Re-negotiate**
- **\$750,000 was paid to local municipalities for Tribal Fiscal year ending September 30, 2010.**
- **16 Compact inspections completed year-to-date of the total 84 inspections permitted annually.**
- **140 Compact hours used year-to-date of the 1,200 hours permitted annually.**

# What We've Done Lately

- ApplyNow!
- Licensee Survey
- Video Conferencing with Licensees
- Counterfeit Cigarette Task Force
- Summer Business Tours

# **Your Bill of Rights**

## **As a licensee with DBPR, you have the right to:**

- Know the reason for your inspection
- Have knowledgeable, helpful, objective and courteous inspectors
- Have professional inspectors who use safe and minimally disruptive practices in completing your inspection
- Receive a copy of the completed inspection
- Question the findings of your inspection
- Ask for reconsideration of those findings
- Be efficiently and fairly treated in all dealings with DBPR

## **Our Commitment**

We will diligently work to make Florida and DBPR great places to conduct business everyday. In keeping with this purpose, we will treat our licensees as valued customers and partners, invest in our employees, and uphold laws that protect the public and enhance Florida's competitiveness.

# Core Mission

- Keeping our eye on the ball.
  - Percentage of Calls Answered Within 5 minutes
    - June – 98.86%
    - July – 95.68%
    - August – 92.15%
  - Central Intake Processing Times
    - June – 3.3 Days
    - July – 3 Days
    - August – 2 Days

# Contact Info

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