

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

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

**MEETING DATE:** Monday, October 17, 2011  
**TIME:** 2:00 —3:30 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 SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 228</b> Latvala (Similar H 129)	Veterinary Practice; Defining the term "limited service veterinary vaccination clinic" as it relates to veterinary medical practice; revising terminology; requiring that the Board of Veterinary Medicine establish minimum standards for limited service veterinary vaccination clinics rather than limited service veterinary medical practices; deleting provisions that limit the practice privileges of out-of-state or foreign veterinarians who are in this state for a specific sporting event, etc.  RI 10/17/2011 Favorable BC	Favorable Yeas 9 Nays 0
2	<b>Issue Brief 2012-220</b> (Review Options for New Lottery Games and Game Distribution) Presentation		Presented
3	<b>Issue Brief 2012-221</b> (Compulsive Gambling Programs for College Student Athletes and Military Veterans) Presentation		Presented
Other Related Meeting Documents			

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

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

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: SB 228

INTRODUCER: Senator Latvala

SUBJECT: Veterinary Practice

DATE: October 11, 2011      REVISED: \_\_\_\_\_

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

**I. Summary:**

The bill renames the term “limited service veterinary medical practice” to “limited service veterinary vaccination clinic.” It also redefines the term to mean veterinary practice in which a veterinarian performs vaccinations or immunizations on multiple animals at a temporary location and for a limited time. In effect, the bill would not permit “limited service veterinary vaccination clinics” to offer parasite removal services, which is a service currently permitted to be performed in a “limited service veterinary medical practice.” The bill requires the board to establish by rule minimum standards for limited-service veterinary vaccination clinics. The rules must be consistent with the type of limited veterinary vaccination service provided.

This bill removes the authority for the business professional and health care professional, including veterinarians, to practice on animals used in a sporting event if he or she is licensed in another state or in a foreign jurisdiction, are in Florida for a specific sporting event, and are employed or designated by the sport’s team.

This bill substantially amends sections 455.2185, 456.023, 474.202 and 474.215, Florida Statutes.

**II. Present Situation:**

**Veterinary Medical Practice**

The Board of Veterinary Medicine (board) within the Department of Business and Professional Regulation (department) is the agency charged with the regulation of the practice of veterinary medicine under ch. 474, F.S., the Veterinary Medical Practice Act (act). The legislative purpose

for the act is to ensure that every veterinarian practicing in Florida meets minimum requirements for safe practice and veterinarians who are not normally competent or who otherwise present a danger to the public are disciplined or prohibited from practicing in Florida.<sup>1</sup>

The department is the state agency responsible for the licensing of veterinarians, while the board<sup>2</sup> within the department is responsible for adopting rules to establish fees and implement the provisions of ch. 474, F.S.

For a person to be licensed as a veterinarian he or she must apply to the department to take a licensure examination. The department must license each applicant who the board certifies has:

- Completed the application form and remitted an examination fee set by the board.<sup>3</sup>
- Graduated from a college of veterinary medicine accredited by the American Veterinary Medical Association Council on Education or graduated from a college of veterinary medicine listed in the American Veterinary Medical Association Roster of Veterinary Colleges of the World and obtained a certificate from the Education Commission for Foreign Veterinary Graduates.
- Successfully completed the examination provided by the department for this purpose, or an examination determined by the board to be equivalent.
- Demonstrated knowledge of the laws and rules governing the practice of veterinary medicine in Florida in a manner designated by rules of the board.<sup>4</sup>

The department is prohibited from issuing a license to any applicant who is under investigation in any state or territory of the United States or in the District of Columbia for an act which would constitute a violation of ch. 474, F.S., until the investigation is complete and disciplinary proceedings have been terminated.<sup>5</sup>

An unlicensed doctor of veterinary medicine who has graduated from an approved college or school of veterinary medicine and has completed all parts of the examination for licensure is permitted, while awaiting the results of the examination for licensure or while awaiting issuance of the license, to practice under the immediate supervision of a licensed veterinarian. A person who fails any part of the examination may not continue to practice, except in the same capacity as other nonlicensed veterinary employees, until the person passes the examination and is eligible for licensure.<sup>6</sup>

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<sup>1</sup> Section 474.201, F.S.

<sup>2</sup> The board consists of seven members, who are appointed by the Governor, and are subject to confirmation by the Senate. Five members of the board must be licensed veterinarians and two members of the board must be laypersons who are not and have never been veterinarians or members of any closely related profession or occupation. *See s. 474.204, F.S.*

<sup>3</sup> For applicants taking the Laws and Rules examination that is not conducted by a professional testing service, the examination fee is \$165.00, payable to the DBPR. For applicants taking the Laws and Rules examination that is conducted by a professional testing service, the examination fee is \$151.50 payable to the department plus \$13.50 payable to the testing service. Rule 61G18-12.002, F.A.C. The applicant for licensure must also pay an initial licensure fee of \$200, if the person is licensed in the first 12 months of the biennium, or \$100, if the person is licensed in the second 12 months of the biennium. Rule 61G18-12.007, F.A.C.

<sup>4</sup> Section 474.207, F.S.

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

<sup>6</sup> *Id.*

An applicant may be eligible for temporary licensure if certain requirements are met. In order for the board to certify an applicant to the department for issuance of a temporary license to practice veterinary medicine, an applicant must demonstrate to the board that the applicant:

- Has filed an application for temporary licensure identifying the name and address of the owner of the animals to be treated, the type of animals to be treated and their injury or disease, the location the treatment is to be performed, and the names, addresses, and titles of all persons entering the state with the applicant to perform the treatment; or
- Has filed an application and is responding to an emergency for the treatment of animals of multiple owners.
- Has paid the temporary licensure fee.
- Holds an active license to practice veterinary medicine in another state of the United States and that any license to practice veterinary medicine that the person has ever held has never been revoked, suspended or otherwise acted against by the licensing authority.
- Is neither the subject of any pending prosecution nor has ever been convicted of any offense which is related to the practice of veterinary medicine; and
- Satisfies the qualifications for licensure by endorsement.<sup>7</sup>

A temporary license is valid for a period of 30 days from its issuance. A temporary license does not cover more than the treatment of the animals of the owner identified in the application. Upon expiration of the license, a new license is required.<sup>8</sup>

An applicant may also be eligible for licensure by endorsement if specific requirements are met. The department must issue a license by endorsement to any applicant who, upon applying to the department and remitting the requisite fee,<sup>9</sup> demonstrates to the board that she or he:

- Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of veterinary medicine in Florida; and
- Either holds, and has held for the 3 years immediately preceding the application for licensure, a valid, active license to practice veterinary medicine in another state of the United States, the District of Columbia, or a territory of the United States, provided that the requirements for licensure in the issuing state, district, or territory are equivalent to or more stringent than the requirements of ch. 474, F.S.; or meets the application and examination requirements under Florida law and has successfully completed a state, regional, national, or other examination which is equivalent to or more stringent than the examination given by the department.<sup>10</sup>

The department is prohibited from issuing a license by endorsement to any applicant who is under investigation in any state, territory, or the District of Columbia for an act which would constitute a violation of ch. 474, F.S., until the investigation is complete and disciplinary proceedings have been terminated.

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<sup>7</sup> Rule 61G18-25.001, F.A.C.

<sup>8</sup> *Id.*

<sup>9</sup> The fee for licensure by endorsement is \$500. Rule 61G18-12.011, F.A.C.

<sup>10</sup> Section 474.217, F.S.

Under s. 474.213, F.S., a person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S. (maximum imprisonment of 5 years, maximum fine of \$5,000, or penalties applicable for a habitual offender) if the person:

- Leads the public to believe that such person is licensed as a veterinarian, or is engaged in the licensed practice of veterinary medicine, without such person holding a valid, active license pursuant to ch. 474, F.S.;
- Uses the name or title “veterinarian” when the person has not been licensed pursuant to ch. 474, F.S.;
- Presents as her or his own the license of another;
- Gives false or forged evidence to the board or a member thereof for the purpose of obtaining a license;
- Uses or attempts to use a veterinarian’s license which has been suspended or revoked;
- Knowingly employs unlicensed persons in the practice of veterinary medicine;
- Knowingly concealing information relative to violations of ch. 474, F.S.;
- Obtains or attempts to obtain a license to practice veterinary medicine by fraudulent representation;
- Practices veterinary medicine in Florida, unless the person holds a valid, active license to practice veterinary medicine pursuant to ch. 474, F.S.;
- Sells or offers to sell a diploma conferring a degree from a veterinary school or college, or a license issued pursuant to ch. 474, F.S., or procures such diploma or license with the intent that it shall be used as evidence of that which the document stands for by a person other than the one upon whom it was conferred or to whom it was granted; or
- Knowingly operates a veterinary establishment or premises without having a premise permit issued under s. 474.215, F.S.

### **Limited Service Veterinary Medical Practice**

Section 474.202(6), F.S., defines the term “limited-service veterinary medical practice” to mean:

offering or providing veterinary services at a location that has a primary purpose other than that of providing veterinary medical services at a permanent or mobile establishment permitted by the Board of Veterinary Medicine; provides veterinary medical services for privately owned animals that do not reside at that location; operates for a limited time; and provides limited types of veterinary medical services.

Section 474.202(9), F.S., defines the term “practice of veterinary medicine” to mean:

diagnosing the medical condition of animals and prescribing, dispensing, or administering drugs, medicine, appliances, applications, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease thereof; performing any manual procedure for the diagnosis of or treatment for pregnancy or fertility or infertility of animals; or representing oneself by the use of titles or words, or undertaking, offering, or holding oneself

out, as performing any of these functions. The term includes the determination of the health, fitness, or soundness of an animal.

Section 474.215(7), F.S., requires the board to establish by rule minimum standards for limited-service veterinary medical practices. The rules cannot restrict limited service veterinary medical practices and must be consistent with the type of limited veterinary medical service provided. The board has defined by rule minimum standards to include vaccinations, immunizations and preventative procedures for parasitic control<sup>11</sup> on multiple animals at a temporary location and for a limited time.<sup>12</sup> The rule defines the term “limited time” as no more than once every two weeks and no more than four hours in any one day for any single location where a clinic is held.<sup>13</sup>

According to the department, anyone, such as a retailer, may obtain a permit for limited service veterinary medical permit, but a licensed veterinarian must perform the services. These limited service clinics are inspected on a random basis. There has been an issue with these clinics not notifying the department before the clinic is conducted.

According to the department, it has not received any substantiated complaints about the care administered at limited service clinics. The complaints it has received about the clinics have been limited to paperwork violations, such as failure to properly register the clinics.

Mobile veterinarian clinics are licensed, must have a premises permit for the mobile unit, and must be inspected prior to providing veterinarian services. A “mobile veterinary establishment” and “mobile clinic” is:

a mobile unit which contains the same treatment facilities as are required of a permanent veterinary establishment or which has entered into a written agreement with another veterinary establishment to provide any required facilities not available in the mobile unit. The terms do not refer to the use of a car, truck, or other motor vehicle by a veterinarian making a house call.<sup>14</sup>

### **General Provisions for Business and Health Professionals**

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 general provisions for licensure, certification, education, examination, and penalties for the following medical professionals are provided under ch. 456, F.S. In addition, ch. 456, F.S., provides the authority of the following boards to regulate their respective professions.

### **Exemption for Out-of-state or Foreign Professionals**

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<sup>11</sup> According to the department, preventive services for parasitic control may require a prescription and testing to determine the health status of an animal.

<sup>12</sup> Rule 61G18-15.007, F.A.C.

<sup>13</sup> Rule 61G18-15.007(1), F.A.C.

<sup>14</sup> Section 474.202(7), F.S.

Sections 455.2185(1) and 456.023(1), F.S., permit professionals from another state, nation, or foreign jurisdiction to practice in Florida under limited circumstances. Such professional are exempt from the license requirements under chs. 455 and 456, F.S., and the applicable professional practice act if that person:

- Holds, if so required in the jurisdiction in which that person practices, an active license to practice that profession.
- Engages in the active practice of that profession outside the state.
- Is employed or designated in that professional capacity by a sports entity visiting the state for a specific sporting event.

Sections 455.2185(2) and 456.023(2), F.S., limit the practice of the professional to the members, coaches, and staff of the team for which that professional is employed or designated and to any animals used if the sporting event for which that professional is employed or designated involves animals. Sections 455.2185(2) and 456.023(2), F.S., also provide that these professionals do not have practice privileges in any licensed veterinary facility without the approval of that facility.

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

#### **Limited Service Veterinary Medical Practice**

The bill amends s. 474.202(6), F.S., to rename the term “limited service veterinary medical practice” to “limited service veterinary vaccination clinic.” It also redefines the term to mean veterinary practice in which a veterinarian performs vaccinations or immunizations on multiple animals at a temporary location and operating for a limited time.

The bill amends s. 474.215(7), F.S., to require the board to establish by rule minimum standards for limited-service veterinary vaccination clinics. It deletes the provision that requires the board to establish by rules minimum standards for limited-service veterinary medical practices. The rules must be consistent with the type of limited veterinary vaccination service provided.

Rule 61G18-15.007, F.A.C., permits “limited-service veterinary medical practices” to perform preventive procedures for parasitic control. In effect, the bill would delete the board’s authority for this rule, and would not permit “limited service veterinary vaccination clinics” to offer parasite removal services, which is a service currently permitted to be performed in a “limited service veterinary medical practice.”

The department has indicated that this bill would not affect mobile veterinary clinics or veterinarians who make house calls.

#### **Exemption for Out-of-state or Foreign Professionals**

The bill amends s. 455.2185, F.S., to delete the authority of a business professional to practice on animals used in a sporting event if he or she is licensed in another state or foreign jurisdiction, is in Florida for a specific sporting event, and is employed or designated by the sport’s team.

The bill also amends s. 456.023, F.S., to delete the authority of a health care professional to practice on animals used in a sporting event if he or she is licensed in another state or foreign jurisdiction, is in Florida for a specific sporting event, and is employed or designated by the sport's team.

The bill deletes the provisions in ss. 455.2185 and 456.023, F.S. that prohibit these professionals from practicing in veterinary facilities without the approval of the facility, which is consistent with the above changes that prohibit the professionals from practicing on animals used by the sporting teams while in Florida.

#### **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:

Sports teams from out-of-state or from foreign jurisdictions that participate in sporting events involving animals in Florida may incur additional costs associated with hiring a Florida-licensed veterinarian to provide veterinary services.

According to the department, veterinarians who work for the United States Equestrian Federation (USEF) would be affected by the removal of that exemption from 455. 2185 and would definitely impact the USEF's events held in Florida. The department also advised that the Fédération Equestre Internationale (FEI), which is the international sanctioning organization for Olympic level sporting events involving equines, requires that a veterinarian licensed by the FEI from a foreign jurisdiction be a part of the Ground Jury at any competition to perform veterinary services.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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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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By Senator Latvala

16-00055-12

2012228

1                                   A bill to be entitled  
 2           An act relating to veterinary practice; amending s.  
 3           474.202, F.S.; defining the term "limited service  
 4           veterinary vaccination clinic" as it relates to  
 5           veterinary medical practice; amending s. 474.215,  
 6           F.S.; revising terminology; requiring that the Board  
 7           of Veterinary Medicine establish minimum standards for  
 8           limited service veterinary vaccination clinics rather  
 9           than limited service veterinary medical practices;  
 10          amending ss. 455.2185 and 456.023, F.S.; deleting  
 11          provisions that limit the practice privileges of out-  
 12          of-state or foreign veterinarians who are in this  
 13          state for a specific sporting event; providing an  
 14          effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18           Section 1. Subsection (6) of section 474.202, Florida  
 19 Statutes, is amended to read:

20           474.202 Definitions.—As used in this chapter:

21           (6) "Limited-service veterinary vaccination clinic ~~medical~~  
 22 ~~practice~~" means a veterinary practice at which a veterinarian  
 23 performs vaccinations or immunizations on multiple animals at a  
 24 temporary location and operates for a limited time ~~offering or~~  
 25 ~~providing veterinary services at any location that has a primary~~  
 26 ~~purpose other than that of providing veterinary medical service~~  
 27 ~~at a permanent or mobile establishment permitted by the board;~~  
 28 ~~provides veterinary medical services for privately owned animals~~  
 29 ~~that do not reside at that location; operates for a limited~~

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30 ~~time; and provides limited types of veterinary medical services.~~

31 Section 2. Subsection (7) of section 474.215, Florida  
32 Statutes, is amended to read:

33 474.215 Premises permits.—

34 (7) The board by rule shall establish minimum standards for  
35 the operation of limited service veterinary vaccination clinics  
36 ~~medical practices~~. Such rules must ~~shall not restrict limited~~  
37 ~~service veterinary medical practices and shall~~ be consistent  
38 with the type of limited veterinary vaccination and immunization  
39 services ~~medical service~~ provided.

40 (a) Any person that offers or provides limited service  
41 veterinary vaccination clinics ~~medical practice~~ shall obtain a  
42 biennial permit from the board the cost of which may ~~shall~~ not  
43 exceed \$250. The limited service permittee shall register each  
44 location where a limited service veterinary vaccination clinic  
45 is held and shall pay a fee set by rule not to exceed \$25 to  
46 register each such location.

47 (b) All permits issued under this subsection are subject to  
48 ~~the provisions of~~ ss. 474.213 and 474.214.

49 (c) Notwithstanding any provision of this subsection to the  
50 contrary, any temporary rabies vaccination effort operated by a  
51 county health department in response to a public health threat,  
52 as declared by the State Health Officer in consultation with the  
53 State Veterinarian, is not subject to any preregistration, time  
54 limitation, or fee requirements, but must adhere to all other  
55 requirements for limited service veterinary vaccination clinics  
56 ~~medical practice~~ as prescribed by rule. The fee charged to the  
57 public for a rabies vaccination administered during such  
58 temporary rabies vaccination effort may not exceed the actual

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59 cost of administering the rabies vaccine. Such rabies  
60 vaccination efforts may not be used for any purpose other than  
61 to address the public health consequences of the rabies  
62 outbreak. The board shall be immediately notified in writing of  
63 any temporary rabies vaccination effort operated under this  
64 paragraph.

65 Section 3. Section 455.2185, Florida Statutes, is amended  
66 to read:

67 455.2185 Exemption for certain out-of-state or foreign  
68 professionals; limited practice permitted.-

69 (1) A professional of any other state or of any territory  
70 or other jurisdiction of the United States or of any other  
71 nation or foreign jurisdiction is exempt from the requirements  
72 of licensure under this chapter and the applicable professional  
73 practice act under the agency with regulatory jurisdiction over  
74 the profession if that profession is regulated in this state  
75 under the agency with regulatory jurisdiction over the  
76 profession and if that person:

77 (a) Holds, if so required in the jurisdiction in which that  
78 person practices, an active license to practice that profession.

79 (b) Engages in the active practice of that profession  
80 outside the state.

81 (c) Is employed or designated in that professional capacity  
82 by a sports entity visiting the state for a specific sporting  
83 event.

84 (2) A professional's practice under this section is limited  
85 to the members, coaches, and staff of the team for which that  
86 professional is employed or designated ~~and to any animals used~~  
87 ~~if the sporting event for which that professional is employed or~~

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88 ~~designated involves animals. A professional practicing under~~  
89 ~~authority of this section shall not have practice privileges in~~  
90 ~~any licensed veterinary facility without the approval of that~~  
91 ~~facility.~~

92 Section 4. Section 456.023, Florida Statutes, is amended to  
93 read:

94 456.023 Exemption for certain out-of-state or foreign  
95 professionals; limited practice permitted.-

96 (1) A professional of any other state or of any territory  
97 or other jurisdiction of the United States or of any other  
98 nation or foreign jurisdiction is exempt from the requirements  
99 of licensure under this chapter and the applicable professional  
100 practice act under the agency with regulatory jurisdiction over  
101 the profession if that profession is regulated in this state  
102 under the agency with regulatory jurisdiction over the  
103 profession and if that person:

104 (a) Holds, if so required in the jurisdiction in which that  
105 person practices, an active license to practice that profession.

106 (b) Engages in the active practice of that profession  
107 outside the state.

108 (c) Is employed or designated in that professional capacity  
109 by a sports entity visiting the state for a specific sporting  
110 event.

111 (2) A professional's practice under this section is limited  
112 to the members, coaches, and staff of the team for which that  
113 professional is employed or designated ~~and to any animals used~~  
114 ~~if the sporting event for which that professional is employed or~~  
115 ~~designated involves animals.~~ A professional practicing under  
116 authority of this section shall not have practice privileges in

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2012228\_\_

117 any licensed health care facility ~~or veterinary facility without~~  
118 ~~the approval of that facility.~~

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

**KOON.LYNN**

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**From:** WILSON.JENNIFER.S16  
**Sent:** Tuesday, October 04, 2011 4:58 PM  
**To:** KOON.LYNN  
**Cc:** IMHOF.BOOTER  
**Subject:** Request Letter-SB 228  
**Attachments:** Request.RI.9.29.11.doc

Good Afternoon,

Attached is a request for consideration of Senate Bill 228. A signed copy has been mailed to your office. Please let me know if you need anything further in this regard.

Thanks,



**Jennifer R. Wilson**

**Legislative Assistant to State Senator Jack Latvala, District 16**

12425 28<sup>th</sup> Street N  
Suite 102

St. Petersburg, FL 33716  
(727) 556-6500

405 Senate Office Building  
404 South Monroe Street

Tallahassee, FL 32399-1100  
(850) 487-5075

[Wilson.jennifer.S16@flsenate.gov](mailto:Wilson.jennifer.S16@flsenate.gov)

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Transportation, *Chair*  
Budget - Subcommittee on General Government  
Appropriations  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Children, Families, and Elder Affairs  
Environmental Preservation and Conservation  
Governmental Oversight and Accountability  
Reapportionment

**SENATOR JACK LATVALA**  
16th District

September 29, 2011

The Honorable Senator Dennis Jones, Chair  
Senate Committee on Regulated Industries  
330 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Jones:

I respectfully request consideration of Senate Bill 228 relating to Veterinary Practice at your earliest convenience.

This bill promotes the health, safety, and welfare of animals by establishing and enforcing professional standards for veterinary health professionals who provide care to animals. I would greatly appreciate the opportunity to present this legislation to the Committee on Regulated Industries as soon as possible.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala  
State Senator  
District 16

Cc: Patrick Imhof, Staff Director

REPLY TO:

- 12425 28th Street North, Suite 102, St. Petersburg, Florida 33716 (727) 556-6500
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5075

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 to Senator or Senate Professional Staff conducting the meeting)

9/17 /2011

Meeting Date

228

Bill Number (if applicable)

Topic Vet regulation

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title TRUSTEE

Address 1119 NEWTON AVE SOUTH

Phone 727/897-9291

Street

Saint Petersburg

florida

33705

City

State

Zip

E-mail justice2jesus@yahoo.com

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

Representing JUSTICE-2-JESUS

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

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

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

For officially noticed committee meetings, 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 \_\_\_\_\_ to \_\_\_\_\_

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

S-001 (04/19/11)

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

waited  
time

10-17-11

Date

SB 228

Bill Number

Barcode

Name Pat Nixon

Phone 528-4442

Address 119 East Park Avenue

E-mail pat@mixonand  
associates.com

Street

Tallahassee

FL

32301

Job Title Consultant

City

State

Zip

Speaking:  For  Against  Information Support  Appearing at request of Chair

Subject SB 228

Representing FL Veterinary Medical Association

Lobbyist registered with Legislature:  Yes  No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.  
If designated employee: Time: from \_\_\_\_\_ .m. to \_\_\_\_\_ .m.

waived  
time

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

10/17/11

Date

228

Bill Number

Barcode

Name Edwin BAYO

Phone 850 385 1314

Address 2022-2 Raymond Diehl Road

E-mail E.BAYO@GFB.writing.com

Street

Tallahassee

FL

32308

City

State

Zip

Job Title Attorney

Speaking:  For  Against  Information

Appearing at request of Chair

Subject SB 228

Representing FL Veterinary Medical Association

Lobbyist registered with Legislature:  Yes  No

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

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# The Florida Senate

Issue Brief 2012-220

September 2011

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Committee on Regulated Industries

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## REVIEW OPTIONS FOR NEW LOTTERY GAMES AND GAME DISTRIBUTION

### Statement of the Issue

The purpose of this issue brief is to provide a review of potential new games for the Florida Department of Lottery, including fast keno and multi-state games such as Mega Millions. Senator Diaz de la Portilla 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 which are connected to a central computer) and instant games (paper scratch-off tickets). The department conducts 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 instant ticket vending machines. Currently, there are approximately 1,500 instant ticket vending machines used across the state.

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. 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 all of 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. The suggested games 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.

### Discussion

#### Florida Department of Lottery

The Department of the Lottery is authorized by Art. X, s. 15, Florida Constitution, which states that "[l]otteries may be operated by the state." 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 20.317(3), F.S., provides that the department shall be located in Tallahassee. Regional offices may be established throughout the state as necessary for the efficient operation of the lottery. In addition, s. 24.104, F.S., requires the department to operate the state lottery “so as to maximize revenues in a manner consistent with the dignity of the state and the welfare of its citizens.”

### **Lottery Games Authorized Under Chapter 24, Florida Statutes**

Chapter 24, F.S., does not define or specify the types of games that may be authorized. Instead, the chapter merely instructs the department to create rules regulating the types of games that are conducted and to be sensitive to the pari-mutuel industry when creating tickets.<sup>1</sup> The statute also provides that the name of an elected official may not appear on a lottery ticket,<sup>2</sup> that an electronic terminal or device used in a lottery game may not be used to dispense coins or currency,<sup>3</sup> and that the only type of player-activated device that may be used is one to dispense instant lottery tickets.<sup>4</sup> However, the player-activated device may dispense change.<sup>5</sup>

### **Lottery Defined**

The term lottery is not defined in the state statutes or state constitution. Generally, a lottery is required to have three elements: prize, consideration, and chance.<sup>6</sup>

In *Lee v. Miami*, a 1935 Florida Supreme Court case, the court considered whether a coin operated device was a lottery.<sup>7</sup> In that case, the court considered the common dictionary definitions of “lottery” as a “scheme for the distribution of prizes by lot or chance” or a distribution of prizes by chance where a small amount of money is wagered for the chance to obtain a larger value in money or other items.<sup>8</sup> The Florida Supreme Court also considered the definition of “lottery” used by the U.S. Supreme Court in 1893, stating that the court defined a lottery as “a scheme for raising money by selling chances to share in a distribution of prizes; more specifically, a scheme for the distribution of prizes by chance among persons purchasing tickets, the correspondingly numbered slips, or lots, representing prizes or blanks, being drawn from a wheel on a day previously announced in connection with the scheme of intended prizes. In law the term ‘lottery,’ said the court, embraces all schemes for the distribution of prizes by chance, such as policy playing, gift exhibitions, prize concerts, raffles at fairs, etc., and includes various forms of gambling.”<sup>9</sup>

<sup>1</sup> Sections 24.105(9)(a) and 24.105(11), F.S.

<sup>2</sup> Section 24.105(9)(a)1., F.S.

<sup>3</sup> Section 24.105(9)(a)2., F.S.

<sup>4</sup> Section 24.105(9)(a)4., F.S.

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

<sup>6</sup> *Equitable Loan & Security Co. v. Waring*, 44 S.E. 320, 344 (Ga. 1903).

<sup>7</sup> *Lee v. City of Miami*, 163 So. 486, 488 (Fla. 1935).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* quoting *Horner v. U.S.*, 13 S.Ct. 409, 412-413 (U.S. 1893).

The court examined the history of gaming laws, specifically mentioning that the Legislature has created separate sanctions for some gambling which differ from those imposed for lotteries. The court held that the distinction and separation in the laws illustrates that there are differences between a lottery and other gambling activities. The court noted that not every scheme that involves prize, chance, and consideration is a lottery.<sup>10</sup> When determining whether the coin operated devices were lotteries, the court held that lotteries infect the whole of a community and the impact of gaming is “generally confined to a few persons and places.”<sup>11</sup> Ultimately, the court determined that because the use of coin operated machines was to be restrained, they did not constitute a lottery.<sup>12</sup>

There are currently 43 state lotteries plus the government of the District of Columbia has a lottery.<sup>13</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 includes the Florida Lotto, Mega Money, Fantasy 5, Play 4, and Cash 3. 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>14</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>15</sup>

### Seminole Indian Compact: Impact on Lottery Expansion

On April 7, 2010, the Governor and the Tribe executed a compact under the Indian Gaming Regulatory Act of 1988<sup>16</sup> that authorizes the Tribe to conduct Class III gaming<sup>17</sup> at seven tribal facilities throughout the state. The compact was subsequently ratified by the Legislature.<sup>18</sup>

The compact has a 20 year term. It permits the Tribe to offer slot machines, raffles and drawings, and any other new game authorized for any person for any purpose, at all seven of its tribal casinos.<sup>19</sup> The compact permits the

<sup>10</sup> *Id.* at 490.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Alabama, Alaska, Hawaii, Mississippi, Nevada, Utah, and Wyoming do not have lotteries.

<sup>14</sup> Lucky Lines started on October 11, 2010, and is the most recent online game introduced by the department.

<sup>15</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>

<sup>16</sup> The Indian Gaming Regulatory Act of 1988 or “IGRA”, Pub. L. 100-497, 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701 et seq.

<sup>17</sup> The Indian Gaming Regulatory Act of 1988 divides gaming into three classes:

- “Class I gaming” means social games for minimal value or traditional forms of Indian gaming engaged in by individuals for tribal ceremonies or celebrations.
- “Class II gaming” includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo. Class II gaming may also include certain non-banked card games if permitted by state law or not explicitly prohibited by the laws of the state but the card games must be played in conformity with the laws of the state. A tribe may conduct Class II gaming if:
  - the state in which the tribe is located permits such gaming for any purpose by any person, organization or entity; and
  - the governing body of the tribe adopts a gaming ordinance which is approved by the Chairman of the National Indian Gaming Commission.
- “Class III gaming” includes all forms of gaming that are not Class I or Class II, such as house-banked card games, casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, slot machines, and pari-mutuel wagering.

<sup>18</sup> Chapter 2010-29, L.O.F.

<sup>19</sup> *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, approved by the U.S. Department of the

Tribe to conduct banked card games, including blackjack, chemin de fer, and baccarat, but the play of the banked card games is not allowed at the tribal casinos at the Brighton and Big Cypress facilities.<sup>20</sup> In exchange for the Tribe's exclusive right to conduct slot machine gaming outside of Miami-Dade and Broward counties and the exclusive right to offer banked card games at the specified tribal facilities, the compact provides for revenue sharing payments by the Tribe to the state.<sup>21</sup>

If the state violates the exclusivity provisions in the compact, the Tribe may be able to reduce or cease payments to the state. However, the compact permits lottery games authorized under ch. 24, F.S., as of February 1, 2010, but not including any player activated machine or device other than a Lottery Vending Machine (LVM) or any banked or banking card or table game.<sup>22</sup> As noted above, ch. 24, F.S., does not authorize any games but instead places some limitations on the types of games or methods of game distribution that may be utilized. As a result, if the new game or distribution method is considered a lottery game authorized as of February 1, 2010, and the new game is not a banked card or table game or player activated or operated machine or device, there should be no impact on tribal payments.

While the compact generally exempts lottery games from activities that could otherwise disrupt revenue sharing payments to the state, the compact contains a limitation on lottery game distribution.<sup>23</sup> The limitation in the compact on the use of player activated machines or devices carved out potential expansion for LVMs, which provides for some lottery expansion. The compact specifies the following three types of LVMs:<sup>24</sup>

1. 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;
2. 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
3. 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 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. 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.

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Interior effective July 6, 2010, 75 Fed. Reg. 128. (hereinafter Gaming Compact) The Tribe has three gaming facilities located in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa).

<sup>20</sup> If these banked games are authorized for any other person for any other purpose, except if banked card games are authorized by a compact with the Miccosukee Indians, the Tribe would be authorized to offer banked cards at all seven of its tribal facilities. The authority for banked card games terminates at the end of 5 years unless affirmatively extended by the Legislature or the Legislature authorizes any other person to offer banked card games.

<sup>21</sup> Currently, the Tribe is in the second year of the compact and making a fixed payment of \$12.5 million per month.

<sup>22</sup> Chapter 24 has not been amended since the 2007 Regular Legislative Session. Chapter 2007-128, L.O.F., amended s. 24.105(10), F.S., to allow the department to hold patents.

<sup>23</sup> The compact generally limits the expansion into new Class III or casino-style games. The limitation on the type of machines that may dispense lottery tickets is a limitation on distribution methods as well as game type.

<sup>24</sup> Parts III.R. and XII.B.8., Gaming Compact, *supra* at n. 19.

The compact limits the number of LVMs that may be located at any one location to ten. The compact further limits the usage of LVMs to provide that no LVM that dispenses electronic instant tickets (type two above) may be installed at any licensed pari-mutuel facility.

## Options for Game Expansion

### *Mega Millions*

Mega Millions is a multi-state lottery game, similar to Powerball. Mega Millions boasts that their game offers the biggest jackpots, starting at \$12 million.<sup>25</sup> Mega Millions began in 1996 but was then known as the Big Game. The first drawing took place on September 6, 1996, with six states participating: Georgia, Illinois, Maryland, Massachusetts, Michigan and Virginia. In 2002, the name of the game was changed to Mega Millions. In 2007, Mega Millions set the record for North America by awarding the largest jackpot in this country of \$390 million. In 2010, 23 more states joined Mega Millions when a cross-selling agreement with Powerball went into effect. Today, Mega Millions is played in 43 jurisdictions, which includes 41 states, the District of Columbia, and the U.S. Virgin Islands.<sup>26</sup>

The Mega Millions game is purely another form of a traditional lottery game, similar to the already offered Power Ball game and the state online lottery games; multi-state games are authorized by s. 24.105(18), F.S. In addition, there should be no impact on any revenue sharing with the Tribe if the department begins to offer this game. In a 2010 report, OPPAGA estimated that adding Mega Millions could generate \$26 to \$35 million in additional transfers to education.<sup>27</sup> However, GTECH, the Lottery's online vendor, determined that adding an additional online game would result in little to no gain in revenue transfers to the state.<sup>28</sup> According to the department, the addition of Mega Millions could shift sales from Powerball and Florida Lotto and may reduce the incentive for sporadic players to respond to large jackpots as there would be more frequent jackpots.

### *Full Service Instant Ticket Vending Machines*

Currently, the department's retailers sell online tickets by requiring the player to complete a paper voucher to select the game, select the amount they wish to play, select the numbers they wish to play, or select the box for QP (Quick Pick), which allows the computer terminal to randomly select the numbers for the player. If the player requests assistance, the player may ask the retailer to manually enter the needed information into the terminal instead of completing a paper voucher. The terminal prints a ticket with the information printed on the face of the ticket that the player must retain to verify if they have a winning combination of numbers. The ticket must be turned in to the retailer or department for payment of any prizes.

If the player wishes to play an instant ticket or scratch-off game, the player can either purchase the ticket from the retailer's employee or purchase the ticket from an instant ticket vending machine (ITVM). Approximately 1,500 ITVMs are currently in use across the state. Chapter 24, F.S., requires that each ITVM be in the line of sight of a retailer in order to verify the age of the buyer. In addition, the statute provides that the machine may only be used to dispense instant tickets. Currently, online tickets are not sold through ITVMs. In order for the online tickets to be sold through a vending machine, the statute would need to be amended to allow for both online and instant tickets to be sold through these devices.<sup>29</sup>

The compact provides for the department to expand the types of LVMs that the department utilizes. Specifically, the compact provides that the department may sell online tickets through the third specified type of LVM. Therefore, amending ch. 24, F.S., to allow for a full service vending machine should have no impact on revenue sharing with the Tribe assuming proper safeguards are put in place to ensure that no more than 10 machines may

<sup>25</sup> See <http://www.megamillions.com/about/> (Last visited June 20, 2011).

<sup>26</sup> Florida and Louisiana are the only two Powerball states that do not offer Mega Millions.

<sup>27</sup> *Lottery Profits Flat: Increasing Retailer Outlets Is Critical to Increasing Sales*, Report No. 10-16, Office of Program Policy Analysis and Government Accountability, Florida Legislature, January 2010. A copy of the report can be viewed at: <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1016rpt.pdf> (Last visited August 17, 2011).

<sup>28</sup> Staff requested a copy of the GTECH report to review, but a copy of the report was not supplied.

<sup>29</sup> See s. 24.105(9)(a)4., F.S. Statutory changes would need to permit a player to select QP or select individual numbers at the terminal.

be located at any one location and that the LVM does not make use of spinning reels and otherwise complies with the definition of LVM in the compact.

According to the department, machines that also offer online games<sup>30</sup> have the potential to transfer from \$11 million to \$75 million in additional annual revenue to education. The department indicated that full service machines may attract larger corporations not currently selling lottery products. The department noted that these machines would allow for expansion of the retailer network into locations such as airports and hotels, it would provide more convenience for players, and it would not require modification to existing retailer contracts for retailers that carry both scratch-off and online games. Current law would require the retailers to monitor the machines for underage play. The department noted that it would require statutory and budgetary authorization from the Legislature.

### ***Keno or Quick Draw***

Currently, over 90 percent of the department's lottery retailers are convenience stores, grocery stores, or liquor stores. These establishments are typically places where consumers can quickly enter the store, make their intended purchases, and then purchase a lottery ticket as an ancillary purchase prior to exiting the store. In other markets, there has been an effort to sell lottery products utilizing non-traditional retailers, such as restaurants and bars. In at least 15 U.S. jurisdictions, lotteries have implemented a quick draw lottery game often referred to as keno, which is typically offered in bars and restaurants.<sup>31</sup>

Keno is fast paced and allows the player to use a paper playslip to play a faster version of an online game. Keno is most often played in social environments, such as bars and restaurants, with "to go" options offered for purchase at the traditional lottery retailer. First, the player determines how many numbers they want to play (often referred to as spots). In most instances, players select between one and ten spots. Second, players determine how much they wish to wager; wagering amounts typically range from \$1 to \$20 per game. Third, the player chooses his or her numbers or selects QP. In some cases, the ticket allows the player to purchase multiple tickets at once for multiple draws or advance play. In addition, some states have bonus play or multiplier options that increase the jackpots for matching numbers. In most states that offer keno, a department computer will electronically conduct drawings to determine the winning numbers in quick increments of time, often every four minutes instead of conducting one or two drawings per week, like the traditional online game that is conducted by the department.<sup>32</sup> The results are displayed on monitors at the retailer and on the Internet.<sup>33</sup>

Although most keno games are played the same, there is some variation in how the game is played across the states. In Ohio, the player selects between 1 and 10 numbers out of a pool of 80 numbers or can select QP. The drawings occur every 4 minutes, 7 days per week, between the normal gaming hours of 6:04 a.m. and 2:28 a.m.<sup>34</sup> In New York, the game is played exactly the same but is referred to as "Quick Draw."<sup>35</sup> Michigan offers both a keno game and a club keno game. To contrast the keno game described above, Michigan offers keno once per

<sup>30</sup> Online games refer to the existing games that are sold through the on-line terminals connected to the Lottery's central computer system.

<sup>31</sup> Jurisdictions that currently offer keno through their lottery include: California, Georgia, Ohio, New York, Michigan, Washington, Indiana, Kansas, Maryland, Massachusetts, Missouri, Oregon, Rhode Island, West Virginia, and the District of Columbia.

<sup>32</sup> Currently, two department online games occur on a more frequent, daily basis; the online games of Play 4 and Cash 3 are twice daily live drawings.

<sup>33</sup> In the District of Columbia, some retailers have video displays that show the winning numbers from the draws. Some displays show balls, some show cards, and some have a scroll on the bottom that display the other online winning numbers. See <http://www.dclottery.com/games/keno/howto play.aspx> (Last visited August 22, 2011).

<sup>34</sup> See the Ohio Lottery Commission website, which can be found at: <http://www.ohiolottery.com/Games/Keno.aspx> (Last visited August 3, 2011).

<sup>35</sup> In New York, the drawings begin daily at 4 a.m. [http://nylottery.org/wps/portal!ut/p/c5/04\\_SB8K8xLLM9MSSzPy8xBz9CP0os\\_jggBC3kDBPE0MLC0dnA09vT0fLQDNvA0dfU30\\_j\\_zcVP1L\\_ShzXKCoCgw30I3NS0xOTK\\_ULst0cAYmfjdU!/d13/d3/L0IJSklna21BL0IKakFBRXIBQkVSQ0pBISEvNEZH3NvMFZ2emE5SUFnIS83X1NQVEZUVkk0MTg4QUMwSUtJQTIRNkswUVMwL3dCT09JNzMxNDAwMDY!/?PC\\_7\\_SPTFTVI4188AC0IKIA9Q6K0QS0\\_WCM\\_CONTEXT=/wps/wcm/connect/NYSL+Content+Library/NYSL+Internet+Site/Home/Daily+Games/QUICK+DRAW/](http://nylottery.org/wps/portal!ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os_jggBC3kDBPE0MLC0dnA09vT0fLQDNvA0dfU30_j_zcVP1L_ShzXKCoCgw30I3NS0xOTK_ULst0cAYmfjdU!/d13/d3/L0IJSklna21BL0IKakFBRXIBQkVSQ0pBISEvNEZH3NvMFZ2emE5SUFnIS83X1NQVEZUVkk0MTg4QUMwSUtJQTIRNkswUVMwL3dCT09JNzMxNDAwMDY!/?PC_7_SPTFTVI4188AC0IKIA9Q6K0QS0_WCM_CONTEXT=/wps/wcm/connect/NYSL+Content+Library/NYSL+Internet+Site/Home/Daily+Games/QUICK+DRAW/) (Last visited August 3, 2011).

night, with a nightly drawing occurring at 7:29 p.m. Instead of the machine selecting 20 winning numbers at random like the Ohio and New York game, 22 numbers are selected at random as the winning numbers.<sup>36</sup> Michigan's "Club Keno" occurs every four minutes. Players have the option to download an application on their smart phones to watch the live drawings and to help determine if they have matched any numbers.<sup>37</sup> The state of Washington also offers daily keno drawings occurring nightly at 8 p.m.<sup>38</sup> Indiana's version is also called "Quick Draw" and drawings occur once per day.<sup>39</sup> Maryland, in addition to offering keno with bonus and super bonus options, also offers a less expensive option called "Packaged Keno-To-Go" where a player can purchase 100 game tickets for just a quarter per game.<sup>40</sup> Massachusetts allows the player to select 12 numbers instead of 10. In addition, in Massachusetts, if the player wishes to see if their keno numbers match on the Internet, the player can do so by looking at a spinning roulette wheel, a keno board, or with baseball graphics.<sup>41</sup>

Two states have prohibited the game of keno even though they have authorized lotteries.<sup>42</sup> In addition, the California Supreme Court has ruled that keno, when played with fixed prize payouts, is not a lottery game because it is operated as a banked game.<sup>43</sup> The court found that keno does not offer a prize by chance but instead the California lottery could win every game or lose every game, thereby allowing the lottery to bet against the participants.<sup>44</sup> After the California Supreme Court decision, the California Lottery began offering a new quick draw game called "Hot Spot."<sup>45</sup> The game operates similar to how keno or quick draw operates in other states, but the game does not offer fixed prizes. Instead, participants share in a prize pool. The game is not as profitable as the fixed prize payout game was for the state.<sup>46</sup>

For purposes of the Indian Gaming Regulatory Act, federal regulations define keno as a class III "casino" game.<sup>47</sup> Lotteries are also considered class III games under these regulations.<sup>48</sup>

In contrast to California's ruling, the department already has three online games with preset payouts: Cash 3,<sup>49</sup> Play 4,<sup>50</sup> and Lucky Lines.<sup>51</sup> On all three games, the player, regardless of how many people purchase chances to win the game, has a predetermined payout for the different winning combinations. Both Cash 3 and Play 4, just like keno, require the player to use a paper playslip, select numbers or QP, and wait for a drawing to occur to determine if they have matched numbers. Once the drawing occurs, the player can determine the preset amount of their winnings. With Lucky Lines, a quasi-instant game, the player selects numbers or QP and the terminal prints out a game board. The player can determine whether he or she has won or lost instantly.

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<sup>36</sup> According to the Michigan Lottery's website, which can be found at:

[http://www.michiganlottery.com/daily\\_keno\\_info?cid=p1core-tbx05.f.1800/b2012/325/8112a212.11b3fa5e03948ea057bbf884600b4eb3#](http://www.michiganlottery.com/daily_keno_info?cid=p1core-tbx05.f.1800/b2012/325/8112a212.11b3fa5e03948ea057bbf884600b4eb3#) (Last visited August 3, 2011).

<sup>37</sup> See [http://www.michiganlottery.com/club\\_keno\\_info?cid=p1core-tbx08.f.1800/b2012/503/03a27802.666213e93589450e1bc85f46110ab13c#](http://www.michiganlottery.com/club_keno_info?cid=p1core-tbx08.f.1800/b2012/503/03a27802.666213e93589450e1bc85f46110ab13c#) (Last visited August 3, 2011).

<sup>38</sup> <http://www.walottery.com/Games/DailyKeno/Default.aspx> (Last visited August 22, 2011).

<sup>39</sup> <http://www.hoosierlottery.com/games/quick-draw> (Last visited August 22, 2011).

<sup>40</sup> <http://mdlottery.com/games/keno/> (Last visited August 22, 2011).

<sup>41</sup> <http://www.masslottery.com/games/keno.html> (Last visited August 22, 2011).

<sup>42</sup> See s. 20, Art. III, Idaho Constitution (providing that the game of keno is unlawful casino gambling) and s. 24(6)(c), Art. IV, Wisconsin Constitution (providing keno is a game that the state run lottery may not conduct).

<sup>43</sup> *Western Telcon v. California State Lottery*, 13 Cal. 4<sup>th</sup> 475 (1996).

<sup>44</sup> *Id.* at 489. The California court found that the amount of payout for keno games was preset and did not change depending on the amount wagered by other players in the game.

<sup>45</sup> <http://www.calottery.com/Games/HotSpot/HowtoPlay/> (Last visited August 26, 2011).

<sup>46</sup> See

[http://cpr.ca.gov/cpr\\_report/issues\\_and\\_recommendations/chapter\\_1\\_general\\_government/increasing\\_state\\_revenues/gg06.html](http://cpr.ca.gov/cpr_report/issues_and_recommendations/chapter_1_general_government/increasing_state_revenues/gg06.html) (Last visited August 26, 2011).

<sup>47</sup> 25 U.S.C. s. 2703(8) and 25 C.F.R. 502.4(a)(2).

<sup>48</sup> *Id.*

<sup>49</sup> Cash 3 was launched in 1988.

<sup>50</sup> Play 4 was launched in 1991.

<sup>51</sup> Lucky Lines was launched in October 2010.

Keno or “Quick Draw,” as demonstrated in other states is a popular game that has generated a substantial amount of revenue for other state lotteries.<sup>52</sup> Estimates for keno revenue from a 2010 OPPAGA report estimate that the addition of keno could generate an additional \$64 to \$358 million in transfers to education.<sup>53</sup> Daily keno could also generate between \$6.8 and \$11.2 million in additional transfers.<sup>54</sup> According to the department, the addition of a fast draw keno game could generate between \$49 million and \$269 million in additional transfers to education annually. The department indicated that the game could generate new retailers who operate in social venues. The department noted that the addition of keno would require legislative action to modify the requirement for drawings to be witnessed by an accountant<sup>55</sup> and budget approval for the new gaming system.

### *Video Lottery Terminals*

Video Lottery Terminals (VLTs) are electronic games of chance played on a video screen. Often the term VLT is used broadly to encompass all forms of electronic gaming, including electronic games played through a lottery and slot machine gaming that is not associated with a lottery. In some cases, VLTs are more narrowly defined and strictly limited to gaming that is associated with a lottery. Even if the machine is used for a lottery product, the term VLT can be used to describe a machine that has a random number generator, a machine that reads instant lottery tickets, or both.

In 1989, South Dakota launched the first video lottery system.<sup>56</sup> The terminals offer a variety of games, including poker, blackjack, keno, and bingo. The maximum bet on the machines is two dollars and the top prize payout is one thousand dollars. Since the start of the games, the terminals have generated over \$1 billion in state revenue.<sup>57</sup> In addition to South Dakota, other states have authorized VLTs in conjunction with their state lottery. Some states have limited the terminals to establishments that already have gambling activities, such as pari-mutuel wagering facilities, while other states have more broadly allowed VLTs in establishments that have liquor licenses.<sup>58</sup>

Video lottery terminals are estimated to generate upwards of \$400 million in transfers to education.<sup>59</sup> Because VLTs are essentially slot machine terminals connected through the lottery, legislative action would be required to authorize these games. The compact provides that the lottery may conduct all games authorized by ch. 24, F.S., as of February 1, 2010. Regardless of whether these types of games were authorized, the compact expressly prohibits the use of player activated or operated machines or devices other than three specified types of LVMs. Therefore, amending ch. 24, F.S., to allow for a video lottery product that plays like a slot machine may violate the exclusivity in the compact and all revenue sharing payments from the Tribe could cease once the new lottery product begins to be operated.<sup>60</sup> According to the department, implementation of VLTs could result in a loss of up to \$69 million in transfers to education or a net gain of over \$200 million depending on the revenues generated from the VLTs and after accounting for the lost compact revenues from the Tribe.

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<sup>52</sup> For calendar year 2010, quick draw in New York generated over \$412 million in sales (6 percent of total sales for the state); for fiscal year 2010-2011, keno generated over \$380 million in sales (22 percent of total sales for the state) for Maryland; for calendar year 2010, quick draw generated over \$133 million in sales in Georgia (4 percent of total sales).

<sup>53</sup> OPPAGA Report, *supra* at n. 27.

<sup>54</sup> *Id.*

<sup>55</sup> Section 24.105(9)(d), F.S., provides that drawings must be “public and witnessed by an accountant employed by an independent certified public accounting firm.”

<sup>56</sup> <http://lottery.sd.gov/games/video/>

<sup>57</sup> Since 1997, all revenues have been deposited in the property tax reduction fund and has provided a 30 percent reduction in property taxes as a result.

<sup>58</sup> West Virginia has allowed VLTs to be located at the four racetracks in the state since 1994. Since that time, VLTs have been approved for other adult locations that possess a liquor license.

<http://www.wvlottery.com/videolottery/whatisvideolottery.aspx> Ohio (<http://longshotsblues.wordpress.com/2011/06/30/ohio-one-signature-away-from-vlts-at-the-race-tracks/>), Delaware, New York, and Rhode Island (<http://www.rilot.com/video.asp>) are other examples of states that have limited the placement of VLTs to establishments that already have gaming. Oregon permits ten VLTs to be located at pari-mutuels and up to six terminals to be located in facilities with liquor licenses. *See* <http://www.leg.state.or.us/ors/461.html> (Last visited August 22, 2011).

<sup>59</sup> OPPAGA Report, *supra* at n. 27.

<sup>60</sup> The compact defines video lottery terminals (VLTs) as “Class III gaming or other casino-style gaming” under the reduction in revenue payments under Part XII of the compact.

### *Other Electronic Options for Nontraditional Locations*

Although the only player-activated machine currently authorized in ch. 24, F.S., is one to dispense instant lottery tickets, the compact with the Tribe provided for three specified LVMs. The second type of machine identified in the compact is one that may dispense an electronic instant ticket. Specifically, the compact provides that the authorized machine may “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”.<sup>61</sup> This type of machine, while not currently used by a lottery in any jurisdiction, could modernize ticket distribution and allow for some expansion of lottery products onto an electronic gaming format.

As noted above, electronic options in bars and restaurants have proven to be profitable for state lotteries. In addition to VLTs, some states have other options in their bars that have also provided substantial state revenue. For example, Louisiana’s video poker machines, which are located in licensed bars, restaurants, hotels, off-track betting parlors, and truck stops, have generated over \$600 million in revenue in 2009-2010.<sup>62</sup>

Although no jurisdictions are currently operating a machine that would comply with the requirements of the compact, vendors have expressed their willingness to create such a machine. In addition, the District of Columbia’s Lottery is expected to release a similar machine this fall.<sup>63</sup> The electronic instant ticket vending machine will read the instant ticket and reveal the outcome to the player in an entertaining fashion. The machine will not impose any chance upon the game or affect the outcome of the game in any way; the machine will merely read the electronic instant ticket and display the outcome. The player will have the benefit of extended play through entertaining graphics, which is expected to drive more consumers to play the games. In addition, the machine will be placed in restaurants and bars, locations that are not typically retailers of the lottery.

Section 24.105(9)(a)4., F.S., provides that the instant ticket vending machine must be “designed to prevent its use or conversion for use in any manner other than the dispensing of instant lottery tickets.” Arguably, the use of a lottery product that allows a player to reveal the results of an instant ticket electronically would be a use other than the mere dispensing of a lottery ticket. In addition, the compact provides that an LVM that dispenses electronic instant tickets may not be installed at any licensed pari-mutuel facility; no prohibition against ITVMs being placed in pari-mutuel facilities currently exists in the law. Therefore, to protect the revenues generated under the compact, it may be in the best interest of the state to amend ch. 24, F.S., to require that only the type of LVMs specified in the compact could be authorized and utilized and to provide that an electronic ITVM may not be located at any licensed pari-mutuel facility.

In April 2010, the Revenue Estimating Conference (REC) analyzed CS/CS/SB 674,<sup>64</sup> which sought to authorize the three types of LVMs that were included in the compact. The adopted consensus estimate was indeterminate positive for the adoption of both an electronic instant ticket vending machine and a LVM that could dispense online tickets. For just the electronic instant ticket machine, the REC indicated that there are over 2,500 bars, taverns, and restaurants that could become retailers and use these machines. The estimates for these machines ranged from \$32 million to over \$100 million annually. In addition, an interested lottery vendor has estimated that this type of vending machine could generate up to \$40 million per year during the first year of implementation and over \$300 million per year after year three. At least two vendors have expressed an interest in developing LVMs to meet the compact’s definitions. According to the department, electronic ITVMs could provide a business model that would allow for retailer expansion into non-traditional locations such as bars and restaurants. The department indicated that it would need budget approval for the machines.

<sup>61</sup> Part III.R.3., Gaming Compact, *supra* at n. 19.

<sup>62</sup> <http://lgcb.dps.louisiana.gov/docs/2010-2011%20Annual%20Report.pdf> (Last visited August 22, 2011).

<sup>63</sup> <http://www.dclottery.com/AboutUs/eITVMinfo.aspx> (Last visited August 22, 2011).

<sup>64</sup> Introduced by Senator Jones (R-13) in the 2010 Regular Legislative Session.

### *Subscriptions*

The department currently allows lottery players to purchase tickets in advance for multiple drawings of online games. The advance play option allows the player to purchase up to 14 additional draws<sup>65</sup> on some games and as many as 52 draws for Lotto. At least 13 other states also allow their players to purchase advance drawings with their lottery retailers; some states give a small discount for purchasing multiple tickets at once.<sup>66</sup>

In contrast to advance play, subscription services for lottery products are available in some states. Subscriptions benefit the consumer by allowing the player to purchase a subscription for multiple lottery draws at once from their home. According to the department, subscriptions benefit the consumer by preventing missed draws, avoiding the inconvenience of waiting in lines to purchase tickets, and providing an easier method for claiming prizes. Subscription services often automatically send checks for any winnings to the player thereby avoiding the potential for lost tickets and unclaimed prizes. In Florida, lottery tickets must be purchased with cash unless the purchaser also purchases at least \$20 worth of additional goods and services.<sup>67</sup> Subscription applications could be available on the Internet and at retailers and require the purchaser to use a check or money order to comply with current law. If subscriptions were available through a transaction over the Internet and allowed for purchase with a credit card, the statute would need to be amended to allow for the purchase of lottery tickets by credit card.

Subscriptions could be completed and mailed in to the department or completed entirely on the Internet. Federal law generally prohibits online interstate gambling. The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)<sup>68</sup> provides for several safe harbors to the prohibition on internet gambling, including intrastate and intertribal transactions.<sup>69</sup> Unlawful Internet gambling does not include a bet or a wager initiated and received within a single state (intrastate transactions), if such a transaction is authorized by state law and that law requires age and location verification as well as security that ensure the age and location requirements are met.<sup>70</sup> There is no specific safe harbor for lottery transactions. As a result, in order to sell lottery tickets on the Internet, the transaction would need to be intrastate.

Although the transaction could be legally conducted under UIGEA, other states have had difficulties with credit card transactions being denied as unlawful internet gambling.<sup>71</sup> Due to difficulties in North Dakota, the state lottery has issued a warning to potential subscription buyers about charges being declined or fees or penalties being assessed by credit card companies for attempting to make these purchases. The lottery further warns that the buyer should contact their credit card company prior to making any charges for lottery products to ensure that they will not be penalized. In addition, the lottery encourages the player to purchase with a check or money order.<sup>72</sup>

Currently a small percentage of states are selling subscription services. An even smaller number are selling subscriptions on the Internet with a credit card. In 2005, both New York and North Dakota began selling lottery tickets over the Internet and accepting subscription sales with a credit card. Currently, both MasterCard and Discover accept the transactions while Visa has declined to do so. In New York, subscription services represent approximately 5 percent of total sales. Twenty-five percent of all subscriptions are completed completely on the

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<sup>65</sup> Play 4 and Cash 3 can only be purchased for 14 draws in advance.

<sup>66</sup> See the State of Oregon's lottery at: <http://www.oregonlottery.org/GameInfo/Powerball/> (Last visited August 12, 2011). In Oregon, if the player purchases 26 consecutive draws, the player receives a small discount and only pays \$25.

<sup>67</sup> Section 24.118(1), F.S.

<sup>68</sup> The Unlawful Internet Gambling Enforcement Act of 2006 was signed into law by President George W. Bush on October 13, 2006. The provisions of UIGEA were adopted in Conference Committee as an amendment to H.R. 4954 by Representative Daniel E. Lungren (CA-3), "The SAFE Ports Act of 2006." It is codified at 31 U.S.C. s. 5362.

<sup>69</sup> An intra-tribal transaction is a transaction that is made and received on the tribal land of a single Tribe or from the land of one tribe to another, if the transaction is allowed under the Indian Gaming Regulatory Act. See 31 U.S.C. s. 5362(10)(C)(i)(I-II) and 25 U.S.C. s. 2701 et seq.

<sup>70</sup> 31 U.S.C. s. 5362(10)(B)

<sup>71</sup> See <http://www.pokerlistings.com/uigea-effect-legal-online-gambling-blocked-37720> (Last visited on August 12, 2011). The article notes that both the New Hampshire and the North Dakota lotteries have had difficulties with online transactions.

<sup>72</sup> See the North Dakota Lottery subscription information found at: <https://www.lottery.nd.gov/LotterySubscription/subscriptions.shtml> (Last visited on August 12, 2011).

Internet with a credit card; other subscriptions are completed by mailing in the application. Subscription sale revenue has remained steady at approximately \$15 million per year in New York. According to a representative from the New York Lottery, subscription sales have generated additional revenue for the lottery as most of the subscription holders are niche players who prefer not to purchase in retail stores. In North Dakota, subscription sales account for approximately 2 percent of all sales. In a 2010 report, OPPAGA estimated that subscription sales could generate an additional \$10 million in transfers to education.<sup>73</sup>

Internet sales through the lottery could potentially impact revenue payments with the Tribe. First, Part XI.B.3. of the compact provides that “any change in State law to affirmatively allow internet/online gaming (or any functionally equivalent remote gaming system that permits a person to game from home or any other location that is remote from a casino or other commercial gaming facility)” which results in the net win from the Tribe being reduced more than five percent shall require the Tribe to make payments under the Percentage Revenue Share amounts rather than operating under the Guaranteed Minimum Compact Term Payment. The second potential impact in the compact is in Part XII.B.8., which provides the exception for lottery activities conducted prior to February, 1, 2010. This part provides that the only player activated or operated machines or devices that may be used are the three types of LVMS specified in the compact. Section 24.105(9)(a)3., F.S., distinguishes between a player activated machine and a machine that needs the assistance of the retailer. With Internet subscription sales, the application would still need to be processed, verified, and assisted by a retailer. The player cannot process or play anything on the Internet himself. In addition, subscriptions could be handled by paper applications and mailed in with cash or money orders to remove all necessities for any legislative action or difficulties under UIGEA.

### *Electronic Notifications*

Lottery players can find information about current jackpots, available games, and retailers at the department’s website, [www.flalottery.com](http://www.flalottery.com). The website also allows customers to sign up for email alerts, text alerts, or to download podcasts of game drawings. Customers can download a Yahoo! Widget application to their computer to have more lottery information at their fingertips.

In addition to updating their websites, implementing new games, or altering the distribution method of current games, other state lotteries have taken steps to establish a stronger communication network and loyalty base with their customers. For example, some states have created twitter and facebook pages to keep consumers up-to-date on the latest products, prizes, and events. Other states have created loyalty programs that allow frequent lottery purchasers to earn points and purchase or win prizes.<sup>74</sup> At least one vendor has indicated that there are states that are considering adding a quick response (QR) code to their lottery tickets.<sup>75</sup> The vendor indicated that the QR code permits the consumer to scan their lottery ticket with their smartphone into a lottery application (app). The app would notify the player if he or she won or how many numbers they matched. These programs and ideas are not solely intended to notify the players of their wins but to also provide a better source of information to the lottery player.<sup>76</sup> For example, the program can tell the player when the next draw will occur, the jackpot information for the next draw, and could be programmed to inform the player where the closest retailer is located so that the player has the necessary information to purchase another lottery ticket.

According to the department, the department is currently exploring loyalty or VIP program ideas and social networking outreach.

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<sup>73</sup> OPPAGA Report, *supra* at n. 27.

<sup>74</sup> E.g., the Georgia Lottery (<https://playersclub.galottery.com/>), the Michigan Lottery ([http://www.michiganlottery.com/about\\_players\\_club?cid=p1core-tbx09.f.1800/b23a7/593/b5b46469.239360c4b4d3f9aa114d0ea39060b86e](http://www.michiganlottery.com/about_players_club?cid=p1core-tbx09.f.1800/b23a7/593/b5b46469.239360c4b4d3f9aa114d0ea39060b86e)), and the Arkansas Lottery (<https://theclub.aslplayerservices.com/about.php>) (Last visited August 22, 2011).

<sup>75</sup> See [http://en.wikipedia.org/wiki/QR\\_code](http://en.wikipedia.org/wiki/QR_code) (Last visited August 22, 2011).

<sup>76</sup> Two interested vendors have shared a similar concept involving mobile communication devices that would allow a player to scan and reveal whether they have won or lost an instant ticket game through entertaining graphics on their smartphone or on a portable tablet computer.

Issue Brief: 2012-220

Regulated Industries Committee

**REVIEW OPTIONS FOR NEW  
LOTTERY GAMES AND GAME  
DISTRIBUTION**

# Overview

- ⦿ Lottery Games Authorized under ch. 24
- ⦿ Potential Seminole Indian Compact Issues
- ⦿ Lottery Games Currently Conducted
- ⦿ Options for Game Expansion

# Chapter 24 – Dept. of Lottery

- ⦿ Chapter 24, F.S., was enacted in 1987 to establish the state lottery
- ⦿ Purpose: to create a state lottery as authorized by the constitution, generate significant additional monies for education, and provide Floridians with the best lottery games available
- ⦿ Provides no definition of lottery or list of games that may be conducted.

# Seminole Indian Compact

- April 2010: Governor and Tribe executed a gaming compact that authorized gaming at seven Tribal facilities.
- In exchange for partial but substantial gaming exclusivity, the Tribe agreed to “Revenue Share” with the state.
- If the state violates the exclusivity provisions in the compact, the Tribe may be able to reduce or cease payments to the state.

# What does the Compact say about Lottery Games?

- No revenue sharing issues for any games authorized under ch. 24, F.S., as of February 1, 2010, but not including any player activated machine or device other than a Lottery Vending Machine (LVM) or any banked or banking card or table game.
- Compact limits lottery distribution methods to three specified types of LVMs.

# What is a Lottery Game?

- ⦿ Lottery not defined in state constitution or statutes
- ⦿ Generally required to have three elements: prize, chance, and consideration
- ⦿ Florida Supreme Court has determined that lotteries “infest the whole of a community”
- ⦿ While a lottery is a form of gambling, not every type of gambling is a lottery.

# What Games Can You Play Today?

## ⦿ Online Games

- Powerball (multi-state game), Florida Lotto, Mega Money, Fantasy 5, Play 4, and Cash 3

## ⦿ Instant Tickets or Scratch Off Games

- Over 50 “games” available

## ⦿ Lucky Lines (quasi-instant/online game)

## ⦿ Millionaire Raffle

## ⦿ Second Chance Drawing

# Lottery Vending Machines

- The compact specifies the following three types of LVMs:
  - A machine to dispense instant lottery tickets;
  - A machine to dispense pre-determined electronic instant lottery tickets where the player touches an image of the ticket on a video screen to reveal the outcome of the ticket; and
  - A machine to dispense online lottery tickets.
- None of the machines may include or make use of video reels or mechanical reels or simulate the play of any casino game.
- Only 10 LVMs may be located in any one area. Pari-mutuel facilities cannot have the second type of machine (electronic instant ticket machine).

# OPTIONS FOR LOTTERY GAMES AND DISTRIBUTION EXPANSION

# Mega Millions

- ⦿ Multi-state lottery game, similar to Powerball
- ⦿ Played in 43 jurisdictions
- ⦿ Cross selling was allowed in January, 2010
- ⦿ No statutory approval required – multi-state games are permitted under ch. 24, F.S.
- ⦿ No compact implications
- ⦿ OPPAGA estimates up to \$35 million in additional transfers to education
- ⦿ Lottery vendor, G-TECH, believes it will cannibalize other online games resulting in little to no gain

# Full Service Instant Ticket Vending Machines (ITVMs)

- Full service ITVMs allow customers to purchase online lottery tickets from a vending machine (similar to already authorized ITVMs)
- 1,500 scratch off or ITVMs are in use.
- Ch. 24, F.S., would need to be amended to permit the use of these machines.
- Compact permits vending machines that sell online games without impacting revenue sharing agreement
- According to the department, these machines may result in up to \$75 million in additional transfers to education

# Keno or Quick Draw

- ◉ 15 US lotteries have implemented a form of keno or quick draw lottery
- ◉ Game is an online game where the drawing occurs every 4 minutes on average
- ◉ Winnings are predetermined amounts based on amount wagered and numbers matched
- ◉ OPPAGA and the department estimate that keno could generate up to an additional \$250 million or more to education
- ◉ Statutory change required
- ◉ Because game is played the same as Cash 3 and Play 4 (online games with predetermined payouts), the game should not impact revenue sharing with the Tribe.

# Video Lottery Terminals

- Video lottery terminals are electronic terminals used to play video lottery games
- Statutory amendments would be required to authorize this type of player-activated device
- Tribal Compact specifically prohibits video lottery terminals and player activated devices other than specified LVMs – authorization results in a complete cessation of revenue sharing to the state
- Could generate upwards of \$400 million in additional transfers to education, but total amount transferred would be reduced by loss from Tribal revenues.

# Electronic Options for Nontraditional Locations

- The Compact permits department to expand the use of player activated machines to include the three types in the compact.
- The second type of machine found in the compact is one that may dispense pre-determined electronic instant lottery tickets where the customer touches an image of the ticket on a video screen to reveal the results of the ticket.
- Statutory authorization may be necessary
- Even if limited to the bars and taverns, machines could generate an estimated \$300 million or more per year

# Subscriptions

- Lottery current allows players to purchase tickets in advance
- Subscription services permit player to buy tickets for longer periods of time. In addition, subscriptions benefit the consumer by preventing missed draws, avoiding the inconvenience of waiting in lines to purchase tickets, and providing an easier method for claiming prizes
- Could be implemented without statutory authorization if customer completes form by mail and by using cash or check
- OPPAGA estimates that subscriptions could generate an additional \$10 million in transfers to education from increasing the player base

# Electronic Notifications

- In addition to updating their websites, implementing new games, or altering the distribution method of current games, other state lotteries have taken steps to establish a stronger communication network and loyalty base with their customers through Facebook pages, phone applications, and VIP loyalty programs.
- Electronic communication helps retain customer base of players.
- According to the department, the department is currently exploring loyalty or VIP program ideas and social networking outreach.

QUESTIONS?



# The Florida Senate

Issue Brief 2012-221

September 2011

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Committee on Regulated Industries

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## COMPULSIVE GAMBLING PROGRAMS FOR COLLEGE STUDENT ATHLETES AND MILITARY VETERANS

### Statement of the Issue

The purpose of this issue brief is to provide a review of 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.

During a presentation before the Senate Regulated Industries Committee in the 2011 Regular Session, the council identified two populations who are at a greater risk for problem gambling: college student athletes and military veterans. The council indicated that it has attempted to implement a compulsive gambling program targeted at collegiate athletes across the state, but has been unsuccessful. The council noted an example of a high school athlete who was both Florida's 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 address the needs of military veterans. 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. Access to the organizations that serve the veterans has also been a problem.

### Discussion

#### Gambling Prevalence

Research indicates that when gambling opportunities become more accessible, the number of people who experience a problem with gambling increases. The vast majority of people who gamble are able to do so as social gamblers. For others, problem gambling or compulsive gambling may become a problem. The National Council on Problem Gambling defines "problem gambling" as a progressive addiction with preoccupation with gambling, a need to bet more and more frequently, irritability when attempting to stop gambling, chasing losses, and loss of control manifested by the continuation of gambling activities despite the serious and negative consequences.<sup>1</sup> In 1980, the American Psychiatric Association recognized and defined pathological/compulsive gambling as an impulse control disorder. Like an addiction to drugs, a pathological gambler is "characterized by preoccupation, narrowing of interests, compulsivity, relapse, dishonesty and overall loss of control."<sup>2</sup>

According to a 2001 prevalence study conducted by the University of Florida, 90 percent of Floridians have gambled at some point in their lifetime. Approximately 10 percent of Floridians reported that they have never

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<sup>1</sup> See <http://www.ncpgambling.org/i4a/pages/index.cfm?pageid=1> (Last visited July 21, 2011).

<sup>2</sup> Shapira, Ferguson, Frost-Pineda, and Gold, *Gambling and Problem Gambling Prevalence Among Adolescents in Florida*, A Report to the Florida Council on Compulsive Gambling, Inc., University of Florida, December 2002.

gambled, 20 percent gamble infrequently (have not placed a bet in the past 12 months), 45 percent have gambled within the past year, and 25 percent gamble weekly.<sup>3</sup> The study indicated that males are more likely to be weekly gamblers than females as were individuals in the 50 to 65 year-old age range. Based on the South Oaks Gambling Screen, the 2001 study approximated that 500,000 Floridians have suffered from serious to severe gambling difficulties at some point in their life.<sup>4</sup>

### **The Florida Council on Compulsive Gambling, Inc.**

The Florida Council on Compulsive Gambling, Inc. (FCCG or council) is a 501(c)(3) not-for-profit organization that provides information, referrals, and support services for problem gamblers and persons affected by problem gamblers. The council also offers prevention and education awareness programs along with professional training to medical practitioners, gambling operators, academia, law enforcement, and other organizations.

The council was established in 1988 as a gaming-neutral educational and advocacy corporation that serves as the designated authority under state contract on gambling addiction. The FCCG is one of more than 35 affiliates of the National Council on Problem Gambling. The primary mission of the council is to:

- Increase public awareness regarding the risks and consequences associated with gambling;
- Provide assistance to problem gamblers, their families, and others adversely impacted; and
- Advocate for programs, services, funding, and other support to address population-specific needs.

Under contract with the Department of Business and Professional Regulation and the Department of the Lottery, the council:

- Operates a confidential 24-hour multilingual HelpLine (888-ADMIT-IT);
- Develops and conducts prevention, education, and outreach programs;
- Designs and presents professional training opportunities;
- Trains medical and other health care practitioners to assess and treat;
- Offers resource development services;
- Sponsors and conducts research;
- Represents the public before government and other policymaking authorities;
- Works with legal authorities and law enforcement on gambling-related cases; and
- Oversees a Speakers Bureau and a Peer Connect program.

### **Funding for the FCCG**

The FCCG relies primarily on state funding sources. The primary source of state funding comes directly from the Florida Department of Lottery and the Department of Business and Professional Regulation. In addition to state funding, the FCCG relies on membership<sup>5</sup> and private donations as a means of operating its programs and services.

In 2010, the State of Florida entered into a compact with the Seminole Tribe of Florida (Tribe) to allow the Tribe to offer certain authorized games on seven specified tribal facilities.<sup>6</sup> The compact required the Tribe to continue its program to combat problem gambling and to work with the FCCG to assist problem gamblers.<sup>7</sup> Under the terms of the compact, the Tribe is required to make a \$250,000 annual donation per facility to the FCCG.<sup>8</sup> The

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<sup>3</sup> Shapira, Ferguson, Frost-Pineda, and Gold, *Gambling and Problem Gambling Prevalence Among Adults in Florida*, A Report to the Florida Council on Compulsive Gambling, Inc., University of Florida, December 2001, revised October 2002.

<sup>4</sup> *Id.* The South Oaks Gambling Screen is a questionnaire that distinguishes between persons with serious or problem gambling to severe and pathological gambling difficulties. The screening involves a 20-item scale that determines whether an individual is hiding evidence of gambling, spending more time or money gambling than intended, arguing about gambling, or borrowing money to pay for gambling debts.

<sup>5</sup> According to the FCCG website, membership dues range from \$35 to \$25,000. See [www.gamblinghelp.org](http://www.gamblinghelp.org) (Last visited August 5, 2011).

<sup>6</sup> See *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. 38833.

<sup>7</sup> Part V.D. of the compact

<sup>8</sup> Part XI.D. of the compact. The compact provides that the Tribe must make an annual donation to the FCCG as “an assignee

dollar value requirement for \$250,000 per facility is the same as the dollar value requirement on pari-mutuel slot machine license holders who must also pay \$250,000 per year for compulsive gambling programs; however, unlike the Tribe's donation which is paid directly to the FCCG, the slot machine regulatory fee for compulsive gambling is paid to the state.<sup>9</sup>

Per the conditions of the compact, the Tribe entered into an agreement with the FCCG to provide treatment for persons with gambling problems who could not otherwise afford to pay for treatment. Until the compact in 2010, state funding did not cover treatment for those who lacked the resources to pay. Now, regardless of their ability to pay, the FCCG can direct callers concerned with problem gambling to the appropriate treatment.

For this fiscal year, 2011-2012, the program has been appropriated \$264,700 from the Pari-mutuel Wagering Trust Fund in the Department of Business and Professional Regulation for the compulsive and addictive gambling prevention contract with FCCG.<sup>10</sup> The Legislature also appropriated \$569,000 from the Operating Trust Fund in the Department of the Lottery for the department to contract with an organization for a compulsive gambling program.<sup>11</sup> The appropriation was vetoed by the Governor.<sup>12</sup> The following chart illustrates the funding allocations from the state for the past five years:

State Funding Sources			
Fiscal Year	Lottery	Department of Business and Professional Regulation	Total State Funding
2006-2007	\$1,300,000	\$400,000	\$1,700,000
2007-2008	\$1,164,275	\$927,000	\$2,091,275
2008-2009	\$1,106,061	\$695,250	\$1,801,311
2009-2010	\$1,119,000	\$690,000	\$1,809,000
2010-2011	\$1,119,000	\$690,000	\$1,809,000
2011-2012	\$0	\$264,700	\$ 264,700

## HelpLine

Over the past ten years, the FCCG HelpLine has received a steady increase in calls for help, information, or referral. During the 2002-2003 fiscal year, the HelpLine received only 912 calls for help, information, or referral. In contrast, in 2009-2010, the HelpLine received almost 5,000 calls for help, information, or referral, and over 16,000 other contacts were received on the HelpLine.

When calls are received, the FCCG compiles extensive information pertaining to the demographics of the callers. In 2009-2010, approximately 50 percent of the callers were between 31 and 49 years old. Sixty-one percent of the callers were male. Forty-seven percent reported a primary gambling problem with slots or similar electronic gambling machines. Only four percent of the callers reported having an issue with sports betting. Sixty-four percent of the callers reported that their primary gambling location was a land-based casino, as compared to a convenience store, the Internet, racetrack, or Internet Sweepstakes center.<sup>13</sup> Seventeen percent of the callers also reported experiencing difficulties with alcohol or substance abuse.<sup>14</sup> Eight percent of callers reported having military experience.

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of the state" in an amount not less than \$250,000 per facility. *The American Dictionary of the English Language, Fourth Edition* (2004) defines an "assignee" as "1. A party to which a transfer of property, rights, or interest is made" or "2. One appointed to act for another; a deputy or agent."

<sup>9</sup> Section 551.118(3), F.S. Currently, seven slot machine license holders pay the license fee for a total of \$1,750,000 per year.

<sup>10</sup> See Specific Appropriation 2125, ch. 2011-69, L.O.F.

<sup>11</sup> See Specific Appropriation 2564, ch. 2011-69, L.O.F.

<sup>12</sup> See Veto Message dated May 26, 2011 at <http://www.flgov.com/wp-content/uploads/2011/05/sb2000.pdf> (Last visited July 29, 2011).

<sup>13</sup> For fiscal year 2010-2011, the FCCG stated that Internet Cafe calls have increased from 68 to 122 calls, representing a 79 percent increase from the prior year.

<sup>14</sup> According to the FCCG, no callers were identified in the 2009-2010 data as being under 18 years of age. Only one percent of the callers were identified as being under 21 years of age.

## Programs

The council provides support for persons experiencing problems with compulsive gambling by providing a confidential referral system and persons who work with problem gamblers, by providing educational training and support guidance. The council has developed and created educational programs designed to target all age groups, including elementary, middle, and high school students. Programs have been specifically designed to target college-aged students, with specific programs targeted even more narrowly for college athletes. In addition, some programs are available to educate seniors, military, and medical or gambling related professionals.

The council's website, [www.gamblinghelp.org](http://www.gamblinghelp.org), has information about how to reach out to a person who may have a gambling problem, email addresses to reach FCCG staff confidentially, and a message forum for people to post questions or to seek advice. In addition, the website has a self-test to determine if a person has a problem and may need to seek help.

The council has indicated that many of the programs that they currently offer will be eliminated due to the significant budget cut they have experienced, including most of their population targeted education programs. These programs include programs targeted towards elementary school students (SMART CHOICES), youth toolkits which furnish tools for parents and teachers, college programs developed in cooperation with the University of Central Florida and endorsed by the National Collegiate Athletic Association (NCAA), the Peer Education Program, and the High School Student Athlete Program.<sup>15</sup> The council will also not be able to continue to sustain the military program, *Combat Gambling Addition: A Toolkit for the Military*.

The council also develops, oversees, and monitors the compulsive gambling programs for the pari-mutuel slot machine licensees. With the current level of funding, the FCCG does not believe it will be able to provide the same level of programming, training, and materials promoting the HelpLine to patrons as it has in prior years.

Coupled with the reductions or eliminations of educational outreach and available programs and resources, the FCCG indicates that it will have to significantly alter its 24-hour helpline. The council stated that it will also not be able to promote the helpline with its statewide advertising campaign. Without the advertisement, individuals in need of problem gambling assistance may have a more difficult time in finding the help they need.

In addition to the FCCG HelpLine and the specific programs mentioned below that are targeted towards student athletes and military personnel, persons suffering with gambling problems can find self-help group support from one of the many Gamblers Anonymous or Celebrate Recovery meetings across the state. Both support programs offer support through a multi-step program with free group meetings. In addition, there are counselors and psychologist who specialize in treatment for compulsive gambling, including an in-state residential treatment program.<sup>16</sup>

## College Student Athletes

In a 2008 study on the prevalence of gambling among college students, it was estimated that approximately five percent of Florida college students surveyed were experiencing significant gambling and gambling related problems.<sup>17</sup> Based on that finding, it is estimated that approximately 50,000 students statewide are experiencing some of the symptoms listed in the diagnostic criteria for pathological gambling. The study found that male students were more likely to gamble than female students, and preferred to gamble on cards, sports, the Internet, games of skill, and in casinos. When asked in the study who the student would turn to for help if they developed a

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<sup>15</sup> See Letter dated July 14, 2011 from the FCCG. A copy of the letter is on file with the committee.

<sup>16</sup> The C.A.R.E. Addiction Recovery center is a residential treatment center in Florida that has a specific program for compulsive gamblers. See <http://www.careflorida.com/> (Last visited July 21, 2011). The residential treatment program takes insurance, provides some scholarships, and offers financing to patients. According to a representative from C.A.R.E, their center is only one of four treatment centers in the United States that has a program specifically designed for persons with compulsive gambling problems.

<sup>17</sup> Gupta, Derevensky, Hess, Kaplan, Lang, Scott, Chavez, and Woodley, *Gambling and Problem Gambling Prevalence Among College Students in Florida*, A Report to the Florida Council on Compulsive Gambling, Inc., McGill University and University of South Florida, July 2008.

gambling problem, the majority of students responded that they would seek help from their family, friends, or a counselor. Only ten percent said they would consult a helpline. Eleven percent of the students stated that they would not seek help. However, 28 percent of those persons identified as pathological gamblers said they would not seek help for their problem.

In 2003 and 2008, the NCAA sponsored two national surveys in which over 20,000 collegiate athletes were surveyed concerning their gambling habits. The research indicates that sports wagering occurs in every division and that student-athletes in every sport are vulnerable, particularly for wagering at a social level.<sup>18</sup> Both studies indicated that Division III athletes have a higher propensity for gambling than Division I or II. The sport with the highest involvement in gambling was golf. The research also indicated that male athletes have a greater propensity to gamble than females. The 2003 report indicated that approximately 69 percent of male student athletes have gambled in the past year versus approximately 47 percent of female student athletes. The 2003 report found that less than five percent of males and one-half of one percent of females were categorized as problem or pathological gamblers. A study that evaluated the survey results from the 2003 study indicated that collegiate athletes have a greater propensity to be weekly gamblers than the average population.<sup>19</sup> Interestingly, the report indicated that the percentage of student athletes with a compulsive gambling problem was lower than that found in the general population.<sup>20</sup> The NCAA indicated that they were preparing to conduct a third study in 2012.

In an attempt to target college students with gambling problems, the FCCG has offered a peer connect service, a 24-hour helpline, and campus-wide educational programs targeted at college athletes. The FCCG program entitled *Students Against Gambling Addiction (SAGA)* was developed in cooperation with the University of Central Florida and endorsed by the NCAA. The program assists institutions in developing campus-wide programs and provides training materials for college counselors, peer advocates, resident advisors, students, student athletes, and others. In addition, the FCCG strives to educate high school athletes prior to their entry into collegiate athletics. The National Federation of State High School Associations teamed up with the NCAA and the FCCG to develop a comprehensive lesson plan for high school student athletes, which provides guidelines for coaches and educators regarding the dangers of sports wagering. The program is also designed to educate high school athletes on various forms of gambling, the addictive dangers of these activities, and the possible adverse impacts on the student's education, sport, and career.

Annually, the council reaches out to all state universities and colleges and encourages the implementation of the SAGA program. The council offers training to staff and personnel online so they are prepared to utilize the program. During the fall of 2010, the FCCG participated in the freshmen orientation for the Florida International University in Miami and promoted the FCCG and the HelpLine. The FCCG also participated in the freshmen orientation for the University of Central Florida. During the orientation, the FCCG made materials available to parents and students and information was presented regarding the HelpLine and related offerings of the FCCG during a student forum. In addition to making information available during its orientation, the University of Central Florida implemented the SAGA program as part of its Peer Educator Class.

In addition to the above programs, the NCAA has rules related to sports wagering to protect both the integrity of the game and to protect the welfare of the student athlete.<sup>21</sup> Student athletes must comply with the NCAA rules

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<sup>18</sup> See 2003 NCAA National Study on Collegiate Sports Wagering and Associated Behaviors, NCAA 2003 Report. The NCAA 2008 report is currently unpublished; however, the NCAA has compiled the results of the survey in a PowerPoint presentation that was utilized during the 2010 NCAA Convention. A copy of the presentation is on file with the committee.

<sup>19</sup> See Ellenbogen, Jacobs, Derevensky, Gupta, and Paskus, *Gambling Behavior Among College Student-Athletes*, *Journal of Applied Sport Psychology*, July 2008, which analyzed the results of the 2003 NCAA report. A copy can be found at: <http://www.ncaa.org/wps/wcm/connect/a55952804187de8fab77fb734e8667f6/J+of+Applied+Sport+Psych+wagering+study08.pdf?MOD=AJPERES&CACHEID=a55952804187de8fab77fb734e8667f6> (Last visited July 25, 2011). The report indicated that while only 2.6 percent of college students gamble on a weekly basis, 7.9 percent of collegiate athletes gamble weekly.

<sup>20</sup> *Id.* The data from the 2003 NCAA report found that slightly under one percent of all collegiate gamblers were pathological gamblers. The report noted that similar studies have found the pathological gambling prevalence in adults to range between 1.3 percent and 2.6 percent.

<sup>21</sup> The 2003 NCAA report found that knowledge of the NCAA rules was highest in Division I athletes and lowest in Division

which prohibit student athletes, coaches, and staff from participating in sports wagering. Specifically, the sports covered include sports in which the NCAA sponsors a championship, including amateur, collegiate, or professional football, basketball, and baseball among others. Sports wagering activities for sports are governed by NCAA Bylaws 10.3.<sup>22</sup> The rules forbid athletes from giving information on college or professional sports to anyone who places bets.<sup>23</sup> The rules seek to protect the integrity of the athlete and sport. Violations of this rule may result in the loss of the student's athletic career.<sup>24</sup> The rule does not cover betting on non-NCAA sponsored sports, including NASCAR and horseracing.

The NCAA is highly involved with gambling related collegiate athlete education in the state. The association has a website, [www.dontbetonit.org](http://www.dontbetonit.org), which provides interactive scenarios for students to consider. The association creates and distributes videos, flyers, newsletters, and posters. In addition, the association provides speakers during major sporting event peaks, such as during the March Madness. According to the NCAA, student athletes tend to be risk takers, in much the same way as gamblers. The NCAA believes that although there is a reported issue with gambling among athletes, the issue does not appear to be compulsive in nature. The NCAA studies did not compare the gambling habits of athletes versus the general college student population. Instead, the NCAA studies focused on sports gambling.

According to the NCAA and major universities in the state, the universities speak with their athletes at least two times per year: once in the fall and once in the spring. In addition, depending on the sport, the athletes may be required to complete forms or affidavits attesting to their compliance with NCAA rules and concerning gambling issues. In addition to presenters, which range from university compliance personnel, law enforcement, NCAA representatives, and FBI employees, the student athletes are also provided drug testing and confidential counseling for many issues, including alcohol, stress, drugs, and gambling.<sup>25</sup> Representatives from the University of Florida and from Florida State University indicated that they do not have an issue with sports wagering and that the entire student body, not solely athletes, has a similar issue with other types of gambling in that they are widely popular and often believed to be legal. Although they have been contacted by the FCCG in the past for outreach programs, the UF Compliance Office indicated that the speakers and programs they currently conduct seem better targeted towards their athletes and NCAA rules.

### Active Duty Military and Veterans

According to a 2001 Statewide Prevalence Study, individuals with military experience are likely to participate in more gambling activities than the general population.<sup>26</sup> In 2002, the Department of Defense conducted a study examining the mental health of military personnel.<sup>27</sup> The portion of the study dealing with gambling behaviors indicated that 6.3 percent of the personnel fell within the "at-risk category," 2.3 percent were categorized as problem gamblers, and 1.2 percent as pathological. The study indicated that the Marine Corps showed the highest rate of problem gambling.<sup>28</sup> According to the FCCG, the study indicates that military personnel could be at a higher risk for gambling related problems than the general population. The council's literature on gambling issues

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III athletes. In addition, the 2008 NCAA study indicated that approximately 95 percent of student athletes reported that they somewhat agree or agree to a great extent that the information and education on the negatives associated with gambling that was provided by the school or NCAA discourages student athletes from gambling.

<sup>22</sup> The same rules apply to Division I, II, and III athletes.

<sup>23</sup> NCAA Bylaw 10.3.

<sup>24</sup> NCAA Bylaw 10.3.2 provides that a student-athlete who engages in activities designed to affect the outcome of a game or the point margin, or engages in sports wagering involving his or her institution shall permanently lose all remaining regular and post-season eligibility in all sports. A student-athlete who participates in any sports wagering through the Internet, a bookmaker, or a parlay card is ineligible for regular and post-season competition for one year of the violation. A student-athlete who subsequently violates any portion of Bylaw 10.3 permanently loses all the remaining regular and post-season eligibility in all sports.

<sup>25</sup> Representatives from the University of Florida Compliance Office stated that their athletes can receive unlimited counseling sessions if they have any problem, including a gambling problem.

<sup>26</sup> *Supra* at n. 3.

<sup>27</sup> Bray, Hourani, Rae, Dever, Brown, Vincus, Pemberton, Marsden, Faulkner, & Vandermaas-Peeler, *Survey of Health Related Behaviors Among Military Personnel*, Department of Defense, 2002. A copy can be found at: <http://www.tricare.mil/main/news/dodsurvey.htm#9.3> (Last visited July 21, 2011).

<sup>28</sup> *Id.*

involving military personnel also notes that prevalence studies are likely to provide a conservative estimate because the studies relied on self-reporting. In addition, the FCCG notes that military personnel, similar to collegiate athletes, may be at a higher risk due to some characteristics that cover both populations; they are both competitive, involved in high stress environments, and risk takers. For veterans, the gambling serves as a replacement for combat action excitement and provides an activity to fill time. In addition, gambling is common on overseas military bases and often used as a recreational activity, which may lead to continued gambling after their service.<sup>29</sup> The rush from military service is often replaced by military veterans with the excitement of gambling.<sup>30</sup>

A 2003 report focused on problem gambling and seniors indicated that there is a strong relationship between military experience and frequent gambling by Florida seniors.<sup>31</sup> The report noted that this is partially explained by the fact that senior men are more likely to gamble than senior women, and senior men are more likely to have some former military experience. The report also noted that despite the high number of seniors with military experience who report frequent gambling, the prevalence of problem gambling among those individuals is not significantly different than the prevalence rates among seniors without such experience.<sup>32</sup>

Because of the increased risk for this population, the FCCG offers programs specifically designed for active military, veterans, and their families. The program is called *COMBAT Gambling Addiction: A Toolkit for the Military*. The program provides materials for soldiers, veterans, and their family members as well as providing a guide for military health care professionals, screening and assessment tools, a PowerPoint presentation for educational forums, an article for print and online publications, and a poster with accompanying brochures. In addition to the toolkit, the FCCG has made contact with 192 bingo halls this prior year and provided sample materials to be displayed at the halls to help promote and advertise the HelpLine. The FCCG has not obtained any confirmations that the materials are being used or that other materials are needed.<sup>33</sup> Although no veterans programs have been identified in the state, at least two states, Minnesota and Massachusetts, have programs for problem gamblers associated with their Veterans Affairs' hospitals.<sup>34</sup>

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<sup>29</sup> Anton, Roger, *Resources On-Duty Facing Problem Gambling, A Short Guide for Returning Veterans Confronting a Gambling Addiction*. In his pamphlet, Mr. Anton, a licensed therapist, states that gaming has been involved in the military since the 1930s with increasing popularity since the 1980s, although gambling was banned on and off during those decades. Mr. Anton notes that over 4,000 slot machines were available for recreational activity on overseas military bases in 2005. A copy of the pamphlet is on file with the committee.

<sup>30</sup> *Id.*

<sup>31</sup> Volberg, R.A., *Gambling and Problem Gambling Among Seniors in Florida*, Report to the Florida Council on Compulsive Gambling, Inc., Gemini Research, Ltd., April 2003.

<sup>32</sup> *Id.*

<sup>33</sup> According to a representative from several veterans groups, the veterans groups have not identified if any of the literature from the FCCG has been used, if any other information is needed, or if there is an identified gaming problem in their population. The primary focus of the veterans' groups in this state has been on homelessness.

<sup>34</sup> See Minneapolis VA Health Care System at: <http://www.minneapolis.va.gov/services/MentalHealth/MHGambling.asp> and Bedford Massachusetts Medical Center at: <http://www.bedford.va.gov/Mentalhealth/gambling.asp> (Last visited August 8, 2011).

# Compulsive Gambling Programs for College Student Athletes and Military Veterans

Issue Brief: 2012-221

Regulated Industries Committee

# Overview

- Overview of Compulsive Gambling
- Florida Council on Compulsive Gambling, Inc.
- Programs for College Student Athletes
- Programs for Military Veterans

# Compulsive Gambling

- Recognized impulse control disorder
- The National Council on Problem Gambling defines “problem gambling” as a progressive addiction with preoccupation with gambling, a need to bet more and more frequently, irritability when attempting to stop gambling, chasing losses, and loss of control manifested by the continuation of gambling activities despite serious and negative consequences.

# Criteria for Classification

- DSM-IV requires at least 5 of the following criteria to classify an individual as a compulsive gambler:
  - Preoccupation.
  - As with drug tolerance, the subject requires larger or more frequent wagers to experience the same "rush".
  - Withdrawal.
  - The subject gambles to improve mood or escape problems.
  - The subject tries to win back gambling losses with more gambling.
  - Lying.
  - The person has unsuccessfully attempted to reduce gambling.
  - Illegal acts.
  - The person gambles despite risking or losing a relationship, job, or other significant opportunity.
  - The person turns to family, friends, or another third party for financial assistance as a result of gambling.

# Floridians

- 90 percent have gambled.
- 20 percent infrequently; 45 percent within the past 12 months; 25 percent gamble weekly.
- 3.6 percent of the adult population have suffered from serious to severe gambling difficulties.

# Florida Council on Compulsive Gambling, Inc.

- Established in 1988 as a gaming neutral education and advocacy corporation.
- Not-for-profit organization that provides information, referrals, and support services for problem gamblers and persons affected by problem gamblers.
- Operate a 24-hour HelpLine (888-Admit-It)
- Under contract with Dept. of Business & Professional Regulation

# Funding

- Department of Business and Professional Regulation - \$264,700
  - Each pari-mutuel facility that is also a slot licensee must pay \$250,000 annually for compulsive gambling programs.
- Tribal donations - \$1,750,000
  - Under the Tribal Compact, the Tribe is required to pay \$250,000 per facility to the Florida Council on Compulsive Gambling.

# 1-888-ADMIT-IT

- 24-Hour, Multilingual HelpLine
- In 2009-2010, received almost 5,000 calls for help and over 16,000 other contacts.
  - 61 percent males
  - 47 percent primary problem with slot machines
  - 64 percent primarily gambled in land-based casinos
  - 8 percent had military experience

# College Student Athletes

- 2008 Study: 5 percent of college students experience significant gambling problems
- FCCG: peer connect service, a 24-hour helpline, and campus-wide educational programs targeted at college athletes
- *Students Against Gambling Addiction (SAGA)* developed with University of Central Florida and NCAA endorsed

# NCAA

- 2003 and 2008 National Survey of 20,000 student-athletes
- Wagering occurs in every division – highest propensity Division III (Golf)
- NCAA Bylaws – forbid student athletes from wagering on certain sporting events
- NCAA website – [www.dontbetonit.org](http://www.dontbetonit.org)
- Provide outreach and education to student athletes at least twice per year.

# Military Veterans

- 2001 Study: Persons with military background participate in more gambling activities
- 2002 Dept. of Defense Study of Military Personnel:
  - 6.3 percent at-risk
  - 2.3 percent problem gamblers
  - 1.2 percent compulsive
- *COMBAT Gambling Addiction: A Toolkit for the Military*

# Treatment

- Most treatment for problem gambling involves counseling, step-based programs, self-help, peer-support, medication, or a combination of these.
- Florida Council on Compulsive Gambling, Inc. refers individuals for treatment and provides funding for treatment for individuals who cannot pay.

Questions?

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

10-17-2011  
Date

Indlim Study/2011  
Bill Number

Barcode

Name Steve Geller  
Address 100 West Cypress Creek Rd. Sp. 100  
Street FT Lauderdale, FL 33309  
City State Zip

Phone 954-491-1128  
E-mail Steve.Geller@flcourts.com  
Job Title Attorney

Speaking:  For  Against  Information  Appearing at request of Chair

Subject compulsive gambling

Representing no one on this topic

Lobbyist registered with Legislature:  Yes  No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.  
If designated employee: Time: from \_\_\_\_\_ .m. to \_\_\_\_\_ .m.



# CourtSmart Tag Report

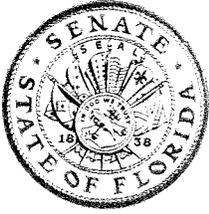
Room: EL 110  
Caption: Senate Regulated Industries

Case:  
Judge:

Type:

Started: 10/17/2011 2:00:14 PM  
Ends: 10/17/2011 2:40:16 PM Length: 00:40:03

2:00:16 PM Chairman Jones for opening comments  
2:00:53 PM Senator Dean is excused  
2:00:59 PM Tab 1 - SB 228 -Vet Medicine  
2:01:26 PM Senator Latvala's aide, Jennifer to explain the bill  
2:01:58 PM Any questions?  
2:02:04 PM Public Testimony  
2:02:08 PM Pat Mixon waives in support  
2:02:15 PM Edwin Bayao - information only  
2:02:27 PM Brian Pitts Justice 2 Jesus  
2:05:48 PM SB 228 passes  
2:06:12 PM Tab 2 - Presentation 2012-220 Interim Project  
2:06:29 PM Tiffany Harrington to present  
2:06:48 PM Review Options for New Lottery Games and Game Distribution  
2:10:41 PM Options for Lottery Games and Distribution Expansion  
2:16:06 PM Questions?  
2:16:09 PM Senator Thrasher for question  
2:17:33 PM Follow up question  
2:18:09 PM Mike Manley  
2:18:14 PM Dennis Harmon for comments  
2:18:53 PM Tab 3 - Presentation on 2012-221 - Compulsive Gambling  
2:19:26 PM Tiffany Harrington professional staff, for explanation  
2:25:05 PM Information on Military Personnel  
2:27:28 PM Any questions?  
2:27:33 PM Senator Geller (appearance card)  
2:29:46 PM Senator Thrasher for question  
2:30:22 PM Senator Geller for response  
2:31:56 PM Senator Thrasher for follow up question  
2:32:31 PM Senator Geller for response  
2:33:42 PM Senator Rich for question for Ms. Harrington  
2:34:18 PM Ms. Harrington for response  
2:34:46 PM Dave Roberts - FL Council on Compulsive Gambling  
2:36:15 PM Senator Sachs for a question?  
2:36:58 PM Dave Roberts for response  
2:38:12 PM Senator Sachs for follow up question  
2:38:27 PM Dave Roberts for response  
2:38:43 PM Chairman Jones for further comments  
2:38:58 PM Senator Siplin would like to be recorded favorably on SB 228 without objection  
2:39:20 PM Chairman for further comments  
2:39:48 PM Senator Braynon for comments  
2:40:06 PM Senator Sachs moves we rise



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Environmental Preservation and Conservation,  
*Chair*  
Criminal Justice, *Vice Chair*  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Governmental Oversight and Accountability  
Reapportionment  
Regulated Industries

**SENATOR CHARLES S. DEAN, SR.**

3rd District

October 12, 2011

The Honorable Dennis Jones  
408 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

A handwritten signature in black ink, appearing to read "Charles S. Dean, Sr.", written in a cursive style.

Dear Mr. Chairman:

The purpose of this letter is to seek your permission to be excused from the scheduled Regulated Industries meeting scheduled for October 17, 2011 at 1:30 P.M. Due to personal reasons, I will not be able to attend.

Should you have any questions concerning this matter, please don't hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles S. Dean, Sr.", written in a cursive style.

Charles S. Dean  
State Senator District 3

cc: Patrick Imhof, Staff Director

### REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- Post Office Box 2558, Ocala, Florida 34478-2558 (352) 873-6513
- 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

**MIKE HARIDOPOLOS**  
President of the Senate

**MICHAEL S. "MIKE" BENNETT**  
President Pro Tempore