

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

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

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: SPB 7072

INTRODUCER: For consideration by the Regulated Industries Committee

SUBJECT: Gaming

DATE: February 8, 2016

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Kraemer</u>	<u>Caldwell</u>		<b>Pre-meeting</b>

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**I. Summary:**

SPB 7072 revises ch. 550 regarding Pari-mutuel Wagering to allow a greyhound racing permitholder, jai alai permitholder, harness racing permitholder, and quarter horse permitholder to determine, on an annual basis, whether it will offer live racing or games at its pari-mutuel facility. Ending the requirement for the offering of live racing or games by these types of permitholders is known as “decoupling.”

The bill prohibits the issuance of new pari-mutuel permits after July 1, 2016, and relocation of permits is no longer allowed. All inactive (dormant) pari-mutuel permits are revoked. The division must also revoke any permit to conduct pari-mutuel wagering if a permitholder has not conducted live events within the 24 months preceding the effective date of the bill, excluding certain limited thoroughbred racing permits. A permit revoked for failure to conduct live events within the 24 months preceding the effective date of the bill may not be reissued.

The bill authorizes additional slot machine licenses at one location in Miami-Dade County and one location in Palm Beach County. Those licensees may make available for play a maximum of 500 slot machines and 250 video race terminals before October 1, 2018, and a maximum of 750 slot machines and 750 video racing terminals thereafter. Each new slot machine licensee must transfer an active existing pari-mutuel permit for surrender to the Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (department), which must void the permit.

The bill reduces the tax rate on slot machine revenue to 30 percent from 35 percent. The maximum number of slot machines that may be made available for play by each licensee is reduced to 1,700 from 2,000. The number of hours that a slot machine gaming area may be open on weekdays is extended, from 18 hours, to 24 hours, which matches the operating hours on weekends. Complimentary alcoholic beverages may be served to slot machine players. The bill provides that a slot machine licensee may allow automatic teller machines (ATMs) or similar devices designed to provide credit or dispense cash, to be located in the gaming area of a slot machine facility.

Licensed pari-mutuel permitholders that operate cardrooms are authorized to offer designated player card games. A designated player game is a game consisting of at least three cards in which the players compare their cards only to the cards of the designated player; the designated player is the player in a designated player game who is identified as the player in the dealer position, is seated in a traditional player position, and who pays winning players and collects from losing players.

Designated card games must be played under the following conditions:

- Cardroom operators that do not possess a slot machine license may offer the games;
- Licensed pari-mutuel facilities that offer slot machine gaming or video race terminals may not offer the games;
- The maximum wager in such games may not exceed \$25;
- The games must meet certain requirements, including who may be a designated player, how often, how the position of designated player moves among players, and how bets may be covered;
- Provides criteria which the cardroom must meet including a ceiling for the number of designated player games of the total authorized game tables at the cardroom;
- The cardroom operator may not serve as a designated player in any game, and may not have any direct or indirect financial or pecuniary interest in a designated player in any game;
- A designated player may only wager personal funds or funds from a sole proprietorship, must operate independently, and may not be directly or indirectly financed or controlled by another party;
- Designated player games offered by a cardroom operator may not make up more than 25 percent of the total authorized game tables at the cardroom; and
- Designated player games may only be approved by the division if such games would not trigger a reduction in revenue-sharing payments under a Gaming Compact between the Seminole Tribe of Florida and the State of Florida.

The bill provides for the establishment of a pari-mutuel permit reduction program, in which the division is authorized to purchase and cancel active pari-mutuel permits. Funding for the program is generated by the revenue share payments made by the Seminole Tribe of Florida associated with the playing of banked card games on tribal lands after November 1, 2015. Payments funding the program are calculated on a monthly basis until the division determines sufficient funds are available, but the funding limit for the program is \$20 million.

A pari-mutuel permitholder may not submit an offer to sell its permit unless it is actively conducting racing or jai-alai as required and satisfies all applicable requirements for the permit. Sufficient moneys must be available before the purchase may be made. The value of the permit must be based upon the valuation of fair market value by one or more independent appraisers selected by the division. The value may not include the value of real estate or personal property. The division may establish a value for the permit that is lower than the amount determined by the independent appraiser, but may not establish a higher value.

The division must accept the offer or offers that best use the available funding, however, the division may also accept offers that it determines are the most likely to reduce the incidence of

gaming in Florida. The division must cancel a permit purchased through the program. This provision expires July 1, 2018, unless reenacted.

The bill requires greyhound track veterinarians to prepare and sign detailed reports under oath, on a form adopted by the division of all injuries to racing greyhounds that occur while the greyhounds are on a racetrack. If an injury occurs at a location other than a racetrack, or during transport, then the injury report must be prepared and signed under oath by a greyhound owner, trainer, or kennel operator who has knowledge of the injury.

Reporting is required within 7 days after the date the injury occurred or is believed to have occurred. The reports are public records that must be maintained for 7 years by the division. False statements in an injury report or the failure to report an injury subjects licensees of the department to disciplinary action under pari-mutuel, regulatory, and professional practice laws.

The requirement to report injuries to racing greyhounds does not apply to injuries to a service animal, personal pet, or greyhound that has been adopted as a pet.

The bill provides that the provisions of the bill are not severable; if the bill or any of its provisions are determined to be unconstitutional, or the applicability thereof to any person or circumstance is held invalid, all provisions or applications of the bill are invalid, and the bill is considered never to have become law.

The bill states the requirements for SPB 7072 to become effective. The bill requires the enactment of SB 7074, respecting the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, or similar legislation ratifying the Gaming Compact between the Seminole Tribe of Florida and the State of Florida executed by the Governor and the Seminole Tribe of Florida on December 7, 2015 (the Gaming Compact).

In addition, the bill requires approval of the Gaming Compact by the United States Department of the Interior (Department of the Interior) as required under the Indian Gaming Regulatory Act of 1988. SPB 7072 will be effective upon the date of publication of such approval by the Department of the Interior in the Federal Register.

## II. Present Situation:

Generally, in 2014<sup>1</sup> there were 39 pari-mutuel permitholders with operating licenses in Florida, operating at 12 greyhound tracks, 6 jai alai frontons, 5 quarter horse tracks, 3 thoroughbred tracks, and 1 harness track.<sup>2</sup> One jai alai permitholder voluntarily relinquished its permit in October 2015.<sup>3</sup> Of the 20 greyhound racing permitholders with operating licenses during 2014-

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<sup>1</sup> The Division of Pari-Mutuel Wagering in the Department of Business & Professional Regulation has not yet issued its 84th Annual Report for Fiscal Year 2014-2015. See <http://www.myfloridalicense.com/dbpr/pmw/PMW-Publications.html> (last visited Feb. 8, 2016).

<sup>2</sup> See Pari-Mutuel Wagering Permitholders With 2014-2015 Operating Licenses map at <http://www.myfloridalicense.com/dbpr/pmw/documents/MAP-Permitholders--WITH--2015-2016-OperatingLicenses.pdf> (last visited Feb. 8, 2016).

<sup>3</sup> See the Stipulation and Consent Order at <http://www.floridagamingwatch.com/wp-content/uploads/Hamilton-Jai-Alai-Consent-Order.pdf> (last accessed Feb. 8, 2016).

2015, three permitholders conducted races at leased facilities.<sup>4</sup> Five pari-mutuel facilities have two permits operating at those locations.<sup>5</sup> One greyhound racing permitholder's operating license was suspended late in 2014,<sup>6</sup> so there are now 19 greyhound racing permitholders with operating licenses.<sup>7</sup> There are 12 permitholders that do not have operating licenses for FY 2014-2015: two greyhound,<sup>8</sup> three jai alai,<sup>9</sup> one limited thoroughbred,<sup>10</sup> and six quarter horse.<sup>11</sup>

### **Regulation by Division of Pari-Mutuel Wagering**

Pari-mutuel wagering is regulated by the Division of Pari-Mutuel Wagering (division) in the Department of Business and Professional Regulation. The division has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties. According to the division, there were 19 license suspensions, and \$80,950 in fines assessed for violations of all pari-mutuel statutes and rules in Fiscal Year 2013-2014.<sup>12</sup>

A "performance" is a minimum of 8 consecutive live races.<sup>13</sup> At least three live performances must be held at a track each week.<sup>14</sup> When a permitholder conducts at least three live performances in a week,<sup>15</sup> it must pay purses (cash prizes to participants) on wagers accepted at the track on certain greyhound races run at other tracks (in Florida or elsewhere).<sup>16</sup> In order to receive an operating license, permitholders must have conducted a full schedule of live racing during the preceding year.<sup>17</sup>

<sup>4</sup> According to the Division of Pari-Mutuel Wagering (division), Tampa Greyhound conducts races at St. Petersburg Kennel Club (a.k.a. Derby Lane), and both Jacksonville Kennel Club and Bayard Raceways (St. Johns) conduct races at Orange Park Kennel Club.

<sup>5</sup> The division indicated that H & T Gaming @ Mardi Gras and Mardi Gras operate at a facility in Hallandale Beach, Daytona Beach Kennel Club and West Volusia Racing-Daytona operate at a facility in Daytona Beach, Palm Beach Kennel Club and License Acquisitions-Palm Beach operate at a facility in West Palm Beach, Miami Jai Alai and Summer Jai Alai operate at a facility in Miami, and Sanford-Orlando Kennel Club and Penn Sanford @SOKC operate at a facility in Longwood.

<sup>6</sup> See <http://www.myfloridalicense.com/dbpr/pmw/documents/CurrentPermitholdersList.pdf> (last visited Feb. 8, 2016) for a list of current permitholders and their licensing status.

<sup>7</sup> Information about permitholders for Fiscal Years 2013-2014, 2014-2015, and 2015-2016 is available at <http://www.myfloridalicense.com/dbpr/pmw/track.html> (last visited Feb. 8, 2016).

<sup>8</sup> North American Racing Association (Key West) and Jefferson County Kennel Club (Monticello).

<sup>9</sup> Tampa Jai-Alai, Gadsden Jai-alai (Chattahoochee), and Kings Court Key (Florida City).

<sup>10</sup> Under s. 550.3345, F.S., during Fiscal Year 2010-2011 only, holders of quarter horse permits were allowed to convert their permits to a thoroughbred racing permit, conditioned upon specific use of racing revenues for enhancement of thoroughbred purses and awards, promotion of the thoroughbred horse industry, and the care of retired thoroughbred horses. Two conversions occurred, Gulfstream Park Thoroughbred After Racing Program (GPTARP) (Hallandale, Broward County), and Ocala Thoroughbred Racing (Marion County).

<sup>11</sup> Pompano Park Racing (Pompano Beach), Tampa Bay Downs (Oldsmar), ELH Jefferson (Jefferson County), DeBary Real Estate Holdings (Volusia County), St. Johns Racing (St. Johns County), and North Florida Racing (Jacksonville).

<sup>12</sup> See *supra* note 7, at page 3.

<sup>13</sup> Section 550.002(25), F.S.

<sup>14</sup> Section 550.002(11), F.S.

<sup>15</sup> The performances may be during the day or in the evenings, as set forth in the schedule that is part of the operating license issued by the division.

<sup>16</sup> Section 550.09514(2)(c), F.S.

<sup>17</sup> Section 550.002(11), F.S. In accordance with s. 550.002(38), F.S., a full schedule of live racing is calculated from July 1 to June 30, which is the state fiscal year.

Current law provides complex requirements for the calculation of a “full schedule of live racing or games:”

- For a greyhound or jai alai permitholder, . . .at least 100 live evening or matinee performances during the preceding year;
- For a permitholder who has a converted permit . . . at least 100 live evening and matinee wagering performances during either of the 2 preceding years;
- For a jai alai permitholder who does not operate slot machines . . ., who has conducted at least 100 live performances per year for at least 10 years after December 31, 1992, and whose handle on live jai alai games . . . has been less than \$4 million per state fiscal year for at least 2 consecutive years after June 30, 1992, . . . at least 40 live evening or matinee performances during the preceding year;
- For a jai alai permitholder who operates slot machines . . ., at least 150 performances during the preceding year;
- For a harness permitholder, the conduct of at least 100 live regular wagering performances during the preceding year;
- For a quarter horse permitholder at its facility unless an alternative schedule of at least 20 live regular wagering performances is agreed upon by the permitholder and either the Florida Quarter Horse Racing Association or the horsemen’s association representing the majority of the quarter horse owners and trainers at the facility and filed with the division along with its annual date application, in the Fiscal Year 2010-2011, . . . at least 20 regular wagering performances, in Fiscal Year 2011-2012 and Fiscal Year 2012-2013, . . . at least 30 live regular wagering performances, and for every fiscal year after Fiscal Year 2012-2013, . . . at least 40 live regular wagering performances;
- For a quarter horse permitholder leasing another licensed racetrack, the conduct of 160 events at the leased facility; and
- For a thoroughbred permitholder, the conduct of at least 40 live regular wagering performances during the preceding year.

For a permitholder restricted by statute to certain operating periods within the year when other similar permitholders are authorized to operate throughout the year, the specified number of live performances which constitute a full schedule of live racing or games are calculated pro rata based on the authorized operating period and the full calendar year, and the resulting number of live performances is the full schedule of live games for such permitholder and all other permitholders of the same class within 100 air miles of such permitholder. A live performance must consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week at the permitholder’s licensed facility under a single admission charge.

If a permitholder does not conduct all of the performances specified in its operating license, the division may determine whether to fine the permitholder or suspend<sup>18</sup> the license,<sup>19</sup> unless the

<sup>18</sup> After Jefferson County Kennel Club failed to conduct scheduled performances, its operating license was suspended September 22, 2014 under a consent order. See the order at <http://www.myfloridalicense.com/dbpr/pmw/PMW-PermitholderOperatingLicenses--2014-2015.html> (last visited Feb. 8, 2016).

<sup>19</sup> Section 550.01215(4), F.S.

failure is due to certain events beyond the permitholder's control.<sup>20</sup> Financial hardship itself is not an acceptable basis to avoid a fine or suspension.<sup>21</sup>

### **Tax Exemptions**

- As provided in s. 550.09514(1), F.S., all greyhound racing permitholders that conduct a full schedule of live racing in a year are eligible for tax exemptions in the form of a credit that directly reduces their state taxes, in the following amounts:
- \$500,000 annually to each permitholder that conducted a full schedule of live racing in 1995, and "are closest to another state that authorizes greyhound pari-mutuel wagering." These requirements qualify three greyhound racing permitholders (Washington County Kennel Club (Ebro), Pensacola Greyhound, and Jefferson County Kennel Club (Monticello);
- \$360,000 annually to each of the other greyhound racing permitholders.

If a permitholder cannot use its full tax exemption amount, then it may transfer of the unused portion of the exemption to another permitholder that has acted as a host track by accepting intertrack wagering.<sup>22</sup> The transfer may occur only once per state fiscal year, and there must be a dollar-for-dollar payment (no discount) by the host track.

### **Tax Exemption Credit for Daily License Fees**

Each permitholder receives a tax credit based on the number of live races conducted in the previous year, multiplied by the daily license fee.<sup>23</sup> This works out to a 100 percent refund of daily license fees for every live race conducted. The daily license credit also may be transferred for payment in full by a host track to a transferring permitholder.

### **Tax Exemption Credit for Escheated Winnings**

Section 550.1645, F.S., provides that after one year, the winnings from all unclaimed pari-mutuel tickets become property of the state. Permitholders must pay the unclaimed (escheated) winnings to the state. The funds are deposited into the State School Fund and are used for the maintenance of public free schools. Section 550.1647, F.S., provides that permitholders who pay escheated winnings to the state are entitled to a 100 percent credit equal to the escheated winnings payment, to be credited in the next fiscal year against greyhound racing taxes; however, the permitholder must pay an amount equal to 10 percent of the escheat credit to qualified greyhound adoption programs.

### **Types of Handle (Funds Bet by Players)**

Section 550.002(13), F.S., defines handle as the aggregate contributions to pari-mutuel pools. There are four types of handle detailed in annual reports<sup>24</sup> of the division:

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Section 550.0951(1)(b), F.S.

<sup>23</sup> Section 550.0951(1)(a), F.S.

<sup>24</sup> See <http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2013-2014--83rd--20150114.pdf>, at 2 (last accessed Feb. 8, 2016).

- Live ontrack, from live races or games at the track/fronton;
- Simulcast, from live races or games originating out-of-state and broadcast to a Florida track or fronton;
- Intertrack, from a Florida track or fronton (acting as host) broadcasting live races or games to other Florida tracks or frontons; and
- Intertrack simulcast, from rebroadcasting of simulcast signals received by a Florida track or fronton to other Florida tracks or frontons.

**Tax Rates**

The stated tax rates on greyhound racing vary considerably. Section 550.0951(3), F.S., specifies rates of 5.5 percent, 7.6 percent, 3.9 percent, and 0.5 percent of handle that depend on the type of wager (and the location of the tracks involved in any intertrack wagering).

Current law provides that intertrack wagering is taxed at the rate of 7.1 percent if the host track is a jai alai fronton. The rate drops significantly to a rate of .5 percent (one-half of a percent) if (1) both the host and guest tracks are thoroughbred permitholders, or (2) a guest track is located more than 25 miles away from the host track and within 25 miles of a thoroughbred permitholder currently conducting live racing.

**Greyhound Permitholders and Cardroom Licenses**

Section 849.086, F.S., provides that a licensed pari-mutuel permitholder that holds a valid pari-mutuel permit and license to conduct a full schedule of greyhound performances may obtain a cardroom license. Eleven (11) of the 12 currently operating greyhound racing locations have cardrooms.<sup>25</sup> As a result of the so-called “90 percent rule,” the required minimum of live performances varies among greyhound permitholders (e.g., in Fiscal Year 2012-2013, the number of performances ranged from 104 to 395), as shown below.

Greyhound Racing Permitholder	Location (City and County)	Performances FY 2012-13	90 Percent Rule*	Full Schedule
H & T Gaming @ Mardi Gras	Hallandale Beach (Broward)	104	100	100
Mardi Gras	Hallandale Beach (Broward)	110	100	100
Flagler Greyhound (Magic City)	Miami (Miami-Dade)	166	163	100
Naples-Ft. Myers	Bonita Springs (Lee)	395	394	100
Jacksonville Kennel Club (bestbet)	Jacksonville (Duval)	112	100	100
Orange Park Kennel Club	Orange Park (Clay)	112	100	100
Bayard Raceways (St. Johns)	Orange Park (Clay)	191	100	100
Daytona Bch Kennel Club	Daytona Beach (Volusia)	224	100	100
West Volusia Racing-Daytona	Daytona Beach (Volusia)	189	100	100

<sup>25</sup> Section 849.086(5)(a), F.S., provides that an initial cardroom license may be issued to a permitholder only after its facilities are in place and it has conducted its first day of live racing or games. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing. See s. 849.086(5)(b), F.S. Renewal of a cardroom license requires that in its annual pari-mutuel license application, the permitholder must request to conduct at least 90 percent of the performances conducted either (1) in the year in which its first cardroom license was issued, or (2) in the state fiscal year immediately prior to the application if a full schedule of live racing was conducted.

Greyhound Racing Permitholder	Location (City and County)	Performances FY 2012-13	90 Percent Rule*	Full Schedule
Palm Beach Kennel Club	West Palm Beach (Palm Beach)	349	100	100
License Acquisitions-Palm Beach	West Palm Beach (Palm Beach)	116	100	100
Sanford-Orlando Kennel Club	Longwood (Seminole)	178	N/A	N/A
Penn Sanford @SOKC	Longwood (Seminole)	156	N/A	N/A
Tampa Greyhound	Tampa (Hillsborough)	207	100	100
Jefferson County Kennel Club	Monticello (Jefferson)	104	217	100
Pensacola Kennel Club	Pensacola (Escambia)	159	160	100
St. Petersburg Kennel Club	St. Petersburg (Pinellas)	207	100	100
Sarasota Kennel Club	Sarasota (Sarasota)	190	188	100
Washington County Kennel Club	Ebro (Washington)	173	167	100
Melbourne Greyhound Park	Melbourne (Brevard)	104	93	93

Section 849.086(13), F.S., provides that at least 4 percent of a greyhound permitholder’s gross cardroom receipts be used to supplement greyhound purses.

**Intertrack Wagering & Simulcast Wagering**

Section 550.615(2), F.S., allows any permitholder that has conducted a full schedule of live racing in the preceding year to receive broadcasts and accept wagers on any type of pari-mutuel race or game conducted by other licensed pari-mutuel permitholders in the state. This type of wagering is defined as “intertrack wagering.”<sup>26</sup>

Wagering on a simulcast event occurs when a wager is placed on (1) a live race or game that is broadcast outside the state from an in-state location, or (2) a live race or game that occurs outside the state but is broadcast to a permitholder in the state.<sup>27</sup>

**Slot Machine Gaming and Cardrooms**

Chapter 551, F.S., authorizes slot machine gaming at the location of certain licensed pari-mutuel locations in Miami-Dade County or Broward County and provides for state regulation.<sup>28</sup> Chapter 849, F.S., authorizes cardrooms at certain pari-mutuel facilities.<sup>29</sup> A license to offer pari-mutuel wagering, slot machine gaming, or a cardroom at a pari-mutuel facility is a privilege granted by the state.<sup>30</sup>

<sup>26</sup> Section 550.002(17), F.S.

<sup>27</sup> Section 550.002(32), F.S.

<sup>28</sup> See ch. 551, F.S., relating to the regulation of slot machine gaming at pari-mutuel locations.

<sup>29</sup> Section 849.086, F.S. Section 849.086(2)(c), F.S., defines “cardroom” to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.

<sup>30</sup> See s. 550.1625(1), F.S., “...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state.” See also *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, which states “Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right,” citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936).



## Gaming Compact with the Seminole Tribe of Florida

The current gaming compact with the Seminole Tribe of Florida (Seminole Tribe) dated April 7, 2010 (the 2010 Gaming Compact)<sup>31</sup> provides that it is not a crime for a person to participate in raffles, drawings, slot machine gaming, or banked card games (e.g., blackjack or baccarat) at a tribal facility operating under the 2010 Gaming Compact.<sup>32</sup>

The 2010 Gaming Compact also provides for revenue-sharing payments from the Seminole Tribe to the state. For its exclusive authority during a five-year period<sup>33</sup> to offer banked card games on tribal lands at five locations, and to offer slot machine gaming during the 20-year term of the 2010 Gaming Compact outside Miami-Dade and Broward Counties, the Seminole Tribe pays the State of Florida a share of “net win” (approximately \$240 million per year).<sup>34</sup>

Except for those locations authorized pursuant to the 2010 Gaming Compact, free-standing, commercial casinos are not authorized, and gaming activity, other than what is expressly authorized, is illegal.

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<sup>31</sup> The 2010 Gaming Compact was executed by the Governor and the Seminole Tribe on April 7, 2010, ratified by the Legislature, effective April 28, 2010, and approved by U.S. Secretary of the Interior, pursuant to the Indian Gaming Regulatory Act of 1988, on June 24, 2010. It took effect when published in the Federal Register on July 6, 2010. The 20-year term of the 2010 Gaming Compact expires July 31, 2030, unless renewed. Section 285.710(1)(f), F.S., designates the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation as the “state compliance agency” having authority to carry out the state’s oversight responsibilities under the 2010 Gaming Compact *See* <http://www.flsenate.gov/. . . RI/Links/Gaming Compact between The Seminole Tribe of Florida and the State of Florida.pdf> (last accessed Feb. 8, 2016).

<sup>32</sup> *See* s. 285.710, F.S., especially subsections (3), (13), and (14). The seven tribal locations where gaming is authorized by the 2010 Gaming Compact are: (1) Seminole Hard Rock Hotel & Casino—Hollywood (Broward); (2) Seminole Indian Casino—Coconut Creek (Broward); (3) Seminole Indian Casino—Hollywood (Broward); (4) Seminole Hard Rock Hotel & Casino—Tampa (Hillsborough); (5) Seminole Indian Casino—Immokalee (Collier); (6) Seminole Indian Casino—Brighton (Glades); and (7) Seminole Indian Casino—Big Cypress (Hendry). Banked card games are not authorized at the Brighton and Big Cypress casinos.

<sup>33</sup> While the exclusive authorization to conduct banked card games expired July 31, 2015, and has not been renewed, according to staff at the department and the Legislature’s Office of Economic and Demographic Research, the Seminole Tribe has continued to transmit monthly payments to the state that include estimated table games revenue. The Seminole Tribe and the State of Florida are parties to litigation regarding the offering of table games by the Seminole Tribe after July 31, 2015. Those parties have negotiated a proposed gaming compact dated December 7, 2015 (the 2015 Gaming Compact), that the Governor, as the designated state officer responsible for negotiating and executing tribal-state gaming compacts with federally recognized Indian tribes, has transmitted to the President of the Senate and the Speaker of the House of Representatives for consideration, as required by s. 285.712, F.S. To be effective, the proposed 2015 Gaming Compact must be ratified by the Senate and by the House, by a majority vote of the members present. *See* s. 285.712(3), F.S.

<sup>34</sup> Subject to the outcome of the pending litigation between the state and the Seminole Tribe respecting continuation of the authorization to offer tables games, the 2010 Gaming Compact provides if (1) authorization for banked card games is not extended beyond July 31, 2015, or (2) the Legislature authorizes Class III (casino-style) games in Broward or Miami-Dade County other than at the eight existing state-licensed pari-mutuel locations, then the “net win” for revenue sharing will exclude amounts from the Seminole Tribe’s facilities in Broward County (i.e., payments will be reduced by approximately \$120 million per year). If the Legislature authorizes new Class III (casino-style) games outside Broward and Miami-Dade Counties, then all revenue sharing under the 2010 Gaming Compact is discontinued.

### Other Authorized Activities

Chapter 849, F.S., also authorizes, with conditions, penny-ante games,<sup>35</sup> bingo,<sup>36</sup> charitable drawings, game promotions (sweepstakes),<sup>37</sup> bowling tournaments, and amusement games and machines.<sup>38</sup>

### Care of Racing Greyhounds

The division, by administrative rule adopted pursuant to s. 550.2415(12), F.S., requires notification of the death of a racing greyhound while in training or during a race on the grounds of a greyhound track or kennel compound.<sup>39</sup> The track must notify the division, within 18 hours, of the deceased animal's location, where the death occurred, and how to reach the kennel operator, trainer and the person making the report. Haulers or drivers who transport racing animals must be licensed, and greyhound trainers of record are responsible for physically inspecting the animals in their care for sores, cuts, abrasions, muzzle burns, fleas, and ticks.<sup>40</sup> If an animal is injured and later dies or is euthanized, the division may conduct a postmortem examination.<sup>41</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 550.002, F.S., (Line 208, page 8) to address the requirements to be met by permitholders for live racing. The bill revises ch. 550 regarding Pari-mutuel Wagering to allow a greyhound racing permitholder, jai alai permitholder, harness racing permitholder, and quarter horse permitholder to determine, on an annual basis, whether it will offer live racing or games (live performances) at its pari-mutuel facility. Ending the requirement for the offering of live performances is known as “decoupling.”

Outdated references to converted greyhound permits and partial-year racing dates are removed. References to evening or matinee performances are removed.

Current law provides that a jai alai permitholder that does not operate slot machines in its pari-mutuel facility must conduct at least 40 live performances, if it has:

- Conducted at least 100 live performances per year for at least 10 years after December 31, 1992; and
- Had handle on live jai alai games conducted at its pari-mutuel facility which was less than \$4 million per state fiscal year for at least 2 consecutive years after June 30, 1992.

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<sup>35</sup> Section 849.085, F.S.

<sup>36</sup> Section 849.0931, F.S.

<sup>37</sup> Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>38</sup> Section 849.161, F.S.

<sup>39</sup> See Rule 61D-2.023(3)(k), F.A.C., which became effective May 21, 2013. According to the department, 192 reports of greyhound deaths were filed with the division between May 31, 2013 and December 31, 2014.

<sup>40</sup> See Rules 61D-2.023(4) and (6), F.A.C.

<sup>41</sup> Section 550.2415(9), F.S. also provides that postmortem examinations may be made of any animal that dies while housed at a permitted racetrack, association compound, or licensed kennel or farm.

If a summer jai alai permitholder meets the above requirements, current law provides it may conduct 40 live performances. The bill changes the minimum number of live performances for summer jai alai live permitholders who do not meet those requirements from 100 to 58.

If a jai alai permitholder operates slot machines in its pari-mutuel facility, current law provides it must conduct at least 150 performances.

The bill defines a form of pari-mutuel wagering based on video signals of recorded thoroughbred races that occurred either in Florida or out of state. The “video race system” or “video race” signals are sent from a server in Florida operated by a licensed totalizator<sup>42</sup> company and displayed at individual wagering terminals at a pari-mutuel facility.

**Section 2** of the bill amends s. 550.01215, F.S., (Line 282, page 10), regarding operating license applications (applications) required to be filed annually with the Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (department) by pari-mutuel permitholder, for a license to conduct pari-mutuel wagering during the next fiscal year (July 1 through June 30). The bill requires the filing of an application by all greyhound racing permitholders, jai alai permitholders, harness racing permitholders, and quarter horse permitholders accepting intertrack and simulcast wagering, even those not conducting live performances.

Such permitholders, if authorized to conduct slot machine gaming, will no longer be required to conduct live performances, and their slot machine license will no longer be conditioned upon the conduct of live performances. It is not clear whether this provision actually applies to all such permitholders.

The bill requires permitholders that accept wagers on broadcast events to disclose the dates of all those events in their application.

The bill provides that certain greyhound racing permitholders<sup>43</sup> may specify that they do not intend to conduct live racing, or that they intend to conduct less than a full schedule of live racing, in the next state fiscal year. Further, a greyhound racing permitholder may receive an operating license to conduct pari-mutuel wagering activities at another permitholder’s greyhound racing facility pursuant to s. 550.475, F.S., which requires that the permitholders be located within a 35-mile radius of each other.

The bill allows the division to approve changes in racing dates for Fiscal Year 2016-2017, if the requests from a greyhound racing permitholder is received before August 31, 2016.

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<sup>42</sup> Section 550.002(36), F.S., defines “totalisator” as the computer system used to accumulate wagers, record sales, calculate payoffs, and display wagering data on a display at a pari-mutuel facility. The term is commonly shortened to “tote board.” Section 550.495, F.S., sets forth licensing and regulation of totalisator companies.

<sup>43</sup> Only those greyhound racing permitholders that conducted a full schedule of live racing for a period of at least 10 consecutive state fiscal years after the state Fiscal Year 1996-1997, or that converted a permit to a permit to conduct greyhound racing after that state fiscal year, are authorized to file an application in this manner. *See* Lines 310-320 of the bill, amending s. 550.01215(1) to add subsection (b).

The bill states the requirements for a summer jai alai permitholder to operate a jai alai fronton only for the summer season each year, for dates selected by the permitholder (between May 1 and November 30). All taxes, rules, and provisions of ch. 550 which apply to winter jai alai permitholders apply to summer jai alai permitholders. Winter and summer jai alai permitholders may not operate on the same days or in competition with each other, but the facilities of a winter jai alai permitholder may be leased for the operation of a summer meet.

**Section 3** of the bill amends s. 550.0251, F.S., (Line 360, page 13) concerning the required content of the annual report from the division to the Governor, Senate, and House of Representatives. The annual report must include, at a minimum:

- Recent events in the gaming industry, including pending litigation; pending permitholder, facility, cardroom, slot, or operating license applications; and new and pending rules;
- Actions of the department relating to the implementation and administration of ch. 550, F.S.;
- The state revenues and expenses associated with each form of authorized gaming; revenues and expenses associated with pari-mutuel wagering must be further delineated by the class of license;
- The performance of each pari-mutuel wagering licensee, cardroom licensee, and slot machine licensee;
- A summary of disciplinary actions taken by the department; and
- Any suggestions to more effectively achieve the purposes of ch. 550, F.S.

**Section 4** of the bill amends s. 550.054, F.S., (Line 389, page 14), respecting applications for permits to conduct pari-mutuel wagering.<sup>44</sup> The bill provides for revocation of permits, unless a failure to obtain an operating license was the direct result of fire, strike, war, or other disaster or event beyond the permitholder's control. The division must revoke a permit if the permitholder:

- Has not obtained an operating license for a period of more than 24 consecutive months after June 30, 2012; or
- Fails to make payments for taxes on handle for more than 24 months.

The bill provides that a new pari-mutuel permit may not be approved or issued after July 1, 2016, and a revoked permit is void and may not be reissued.

The bill allows the division to place a permit into inactive status for a period of 12 months for good cause and renew inactive status for a period of up to 12 months, but a permit may not be inactive for a period of more than 24 consecutive months. Entities with inactive permits are not eligible for licensure for pari-mutuel wagering, slot machines, or cardrooms.

The bill provides that a pari-mutuel license may not be transferred or reissued so as to change the location of a pari-mutuel facility, cardroom, or slot machine facility. The bill removes provisions allowing for the transfer of a thoroughbred permit to another racetrack and allowing conversion of a jai alai permit to a greyhound racing permit.

The bill limits the relocation of a pari-mutuel facility, cardroom, or slot machine facility. The bill allows a greyhound racing permit that was converted from a jai alai to be relocated to another location, if the application is received by July 31, 2018, and if the new location is:

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<sup>44</sup> Applications by permitholders for operating licenses are addressed in Section 2 of the bill.

- In the same county;
- Within a 30-mile radius of the original location; and
- Approved under the zoning regulations of the affected county or municipality.

**Section 5** of the bill repeals s. 550.0555, F.S., (Line 521, page 18), relating to the procedures to accomplish relocation of a greyhound racing permit.

**Section 6** of the bill repeals s. 550.0745, F.S., (Line 522, page 18), relating to the procedure to convert a pari-mutuel permit to a summer jai alai permit.

**Section 7** of the bill amends s. 550.0951, F.S., (Line 523, page 18), respecting the payment of daily license fee and taxes. The bill removes the tax exemption specified in s. 550.09514(1), F.S., of \$360,000 or \$500,000 for each greyhound racing permitholder, and removes other tax credits. The bill removes the authorization in current law that allowed transfers of the tax exemption or other credits among greyhound permitholders, and the requirement that such transfers be approved by the division.

The bill reduces the tax on handle for greyhound racing to 1.28 percent from 5.5 percent. A tax of .5 percent is imposed if the host and guest tracks are thoroughbred racing permitholders, or if the guest track is located outside the market area of a host track that is not a greyhound racing track and within the market of a thoroughbred racing permitholder currently conducting a live meet.

The bill creates a new subsection (5) in s. 550.0951, F.S., to provide for taxes and fees on video race terminals, which may be offered by the additional slot machine licensees that are issued licenses pursuant to s. 551.1041 (*see Section 28*). A permitholder conducting play on video race terminals must pay a tax equal to 2 percent of the handle from the video race terminals located at its facility. Annually on the anniversary date of the authorization to conduct play on video race terminals, the licensee shall pay a \$50,000 fee to the department, for deposit into the Pari-mutuel Wagering Trust Fund, to be used by the division and the Department of Law Enforcement for regulation of video race, enforcement of video race provisions, and related investigations.

**Section 8** of the bill amends s. 550.09511, F.S., (Line 728, page 25) to make conforming references.

**Section 9** of the bill amends s. 550.09512, F.S., (Line 740, page 26), respecting harness horse racing, by requiring the division to revoke the permit of a harness horse racing permitholder that does not pay tax on handle for live harness racing performances for a full schedule of live races for more than 24 consecutive months, unless the failure to operate and pay tax was the direct result of fire, strike, war, or other disaster or event beyond the permitholder's control. The revoked permit is void and may not be reissued. The bill removes a provision allowing reissuance of a harness horse permit that has been revoked for nonpayment of taxes (i.e., has escheated to the state).

**Section 10** of the bill amends s. 550.09514, F.S., (Line 797, page 28) respecting greyhound racing taxes and purse requirements. The bill removes tax credits of \$360,000 and \$500,000 available to permitholders. The bill revises additional purse payments by requiring greyhound

racing permitholders conducting live racing during a fiscal year to pay an annual amount of \$60 for each live race conducted in the preceding fiscal year. The bill removes fees equal to 75 percent of the daily license fees, and other requirements and qualifications. Purses must be disbursed weekly during the permitholder's race meet. A citation to tax rates is revised, pursuant to s. 6, chapter 2000-354, Laws of Florida.

**Section 11** of the bill amends s. 550.09515, F.S., (Line 942, page 33), respecting thoroughbred racing taxes. The bill requires the division to revoke the permit of a thoroughbred racing permitholder that does not pay tax on handle for live thoroughbred horse performances for a full schedule of live races for more than 24 consecutive months, unless the failure to operate and pay tax was the direct result of fire, strike, war, or other disaster or event beyond the permitholder's control. A revoked permit is void and may not be reissued. The bill removes a provision allowing reissuance of a thoroughbred horse permit that has been revoked for nonpayment of taxes (i.e., has escheated to the state).

**Section 12** of the bill amends s. 550.1625, F.S., (Line 1033, page 36) respecting greyhound racing taxes by removing a reference to a greyhound racing permitholder paying the breaks tax.

**Section 13** of the bill repeals s. 550.1647, F.S., (Line 1053, page 37), respecting any unclaimed, uncashed, or abandoned pari-mutuel tickets which have remained in the custody of a greyhound racing permitholder.

**Section 14** of the bill amends s. 550.1648, F.S., (Line 1055, page 37) respecting greyhound racing adoptions, and requires as a condition of adoption, that a bona fide organization must provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter. The fee for sterilization may be included in the cost of adoption.

**Section 15** of the bill creates s. 550.1751, (Line 1105, page 38), reducing the number of pari-mutuel permits. The bill defines "active pari-mutuel permit" as a pari-mutuel permit that is actively used for the conduct of pari-mutuel racing or jai alai and under which the permitholder is operating all performances at the dates and times specified on its operating license.

The bill defines "bidder for an additional slot machine license" as a person who submits a bid or intends to submit a bid for an additional slot machine license in Miami-Dade County or Palm Beach County, as provided in s. 551.1041.

A pari-mutuel permitholder may enter into an agreement for the sale and transfer of an active pari-mutuel permit to a bidder for an additional slot machine license. An active pari-mutuel permit sold and transferred to the highest bidder under the process in s. 551.1041 must be surrendered to the division and voided.

The bill authorizes a pari-mutuel permitholder to enter into an agreement for the sale and transfer of an active pari-mutuel permit to a bidder of an additional slot machine license. An active pari-mutuel permit that is sold and transferred to the highest bidder must be surrendered to and voided by the division.

**Section 16** of the bill creates s. 550.1752 (Line 1124, page 39), establishing a pari-mutuel permit reduction program. The program is created to authorize the division to purchase and cancel active pari-mutuel permits. Funding for the program is generated by the revenue share payments made by the Seminole Tribe of Florida under the 2010 Gaming Compact and received by the State, that are associated with the playing of banked card games on tribal lands after November 1, 2015. Payments funding the program are calculated on a monthly basis until the division determines sufficient funds are available, but the funding limit for the program is \$20 million.

A pari-mutuel permitholder may not submit an offer to sell unless it is actively conducting racing or jai-alai as required and satisfies all applicable requirements for the permit. Sufficient moneys must be available before the purchase may be made. The division may adopt rules to implement the program.

The value of the permit must be based upon the valuation of fair market value by one or more independent appraisers selected by the division. The value may not include the value of real estate or personal property. The division may establish a value for the permit that is lower than the amount determined by the independent appraiser, but may not establish a higher value.

The division must accept the offer or offers that best use the available funding, however, the division may also accept offers that it determines are the most likely to reduce the incidence of gaming in Florida. The division must cancel a permit purchased through the program. This provision expires July 1, 2018, unless reenacted.

**Section 17** of the bill creates s. 550.2416 (Line 1162, page 40), requiring the reporting of racing greyhound injuries. The bill requires greyhound track veterinarians to prepare and sign detailed reports under oath, on a form adopted by the division, of all injuries to racing greyhounds that occur while the greyhounds are on a racetrack.

If the injury of a racing greyhound occurs at a location other than a racetrack, or during transportation, the injury report must state the location where the injury occurred and the circumstances. A report for such an injury must be prepared and signed under oath by a greyhound owner, trainer or kennel operator who has knowledge of the injury.

Reporting is required within 7 days after the date the injury occurred or is believed to have occurred. The reports are public records that must be maintained for 7 years by the division.

The bill requires reporting of the following information about an injury:

- Specific identification of the injured greyhound (name, tattoos, microchip information), with contact information for the greyhound's owner, trainer, and kennel operator; and
- The type and location of the injury, its cause, and estimated recovery time.

Further, if the injury occurs during a race, an injury report must state:

- The name of the racetrack and the time injury occurred;
- The distance, grade, race, and post position of the injured greyhound; and
- The weather and track conditions at the time of the injury.

False statements in an injury report or the failure to report an injury subjects licensees of the department to disciplinary action under pari-mutuel, regulatory, and professional practice laws. Racing greyhound injury reports must be sworn to under penalty of perjury.<sup>45</sup> False statements in an injury report by a veterinarian, owner, trainer, or kennel operator may result in discipline of that licensee by the division as permitted by the provisions of ch. 550, F.S., (Pari-mutuel Wagering, ch. 455, F.S., (Business and Professional Regulation: General Provisions) or ch. 474, F.S., (Veterinary Medical Practice).

The requirement to report injuries to racing greyhounds does not apply to injuries to a service animal, personal pet, or greyhound that has been adopted as a pet.

**Section 18** of the bill amends s. 550.26165, F.S., (Line 1216, page 42), respecting breeders' awards to conform references to changes made in the bill.

**Section 19** of the bill amends s. 550.3345, F.S., (Line 1265, page 44), regarding issuance of limited thoroughbred racing permits (through conversion from a quarter horse permit as allowed by ch. 2010-29, Laws of Florida). The bill removes obsolete language, and removes a provision allowing for relocation of the permit. The bill prohibits transfer of a limited thoroughbred racing permit to another person or entity.

**Section 20** of the bill amends s. 550.3551, F.S., (Line 1346, page 47), regarding transmission of racing and jai alai information, to remove an outdated reference and to remove a reference to live racing requirements for intertrack wagering by harness horse permitholders.

**Section 21** of the bill amends s. 550.375 (Line 1396, page 49), regarding the operation of certain harness horse race tracks, by conforming a statutory reference.

**Section 22** of the bill amends s. 550.615, F.S., (Line 1404, page 49), regarding intertrack wagering by providing that a track or fronton licensee that conducted a full schedule of live racing or games in the preceding year and a greyhound racing permitholder that conducted a full schedule of live racing for at least 10 consecutive years after Fiscal Year 1996-97 qualifies to receive broadcasts of any class of pari-mutuel race or game and accept wagers on such races or games conducted by any class of permitholders licensed under ch. 550, F.S.

A licensed greyhound racing permitholder that accepts intertrack wagers on live greyhound racing signals is not required to obtain written consent from any operating greyhound racing permitholder within its market area. The bill removes provisions limiting intertrack wagering where there are three or more horserace permitholders within 25 miles of each other, and requiring consent of a permitholder where there are only two permits (greyhound racing and jai alai) in the county.

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<sup>45</sup> Section 837.012, F.S., provides that makers of false statements under oath in regard to any material matter (such as those made in an injury reporting form) which he or she does not believe to be true, are guilty of a first degree misdemeanor and may be sentenced to a term of imprisonment up to one year and required to pay a fine not to exceed \$1,000.



The bill removes requirements in existing s. 550.615(8), F.S., that permitholders in any three contiguous counties where there are only three greyhound racing permitholders conduct live racing before they may conduct intertrack wagering. (*See* Line 1458, page 51).

The bill authorizes a greyhound racing permitholder operating pursuant to a current year's operating license that specifies no live performances or less than a full schedule of live performances to:

- Receive broadcasts at any time of any class of pari-mutuel race or game and accept wagers on such races or games conducted by any class of licensed permitholder; and
- Accept wagers on live races conducted at out-of-state greyhound tracks only on the days when the permitholder receives all live races that any greyhound track in the state makes available.

**Section 23** of the bill amends s. 550.6305, F.S., (Line 1493, page 52), respecting intertrack wagering, and authorizes a permitholder located in any area of the state where there are only two permits (greyhound racing and jai alai), and any permitholder that converted its permit to conduct jai alai to a greyhound permit, to accept wagers on rebroadcasts of an out-of-state thoroughbred or harness horse racing permitholder. The bill also provides conforming changes.

**Section 24** of the bill amends s. 550.6308, F.S., (Line 1646, page 55), respecting limited intertrack wagering licenses, by reducing the number of days that thoroughbred horse sales must be conducted from fifteen days to eight days. The bill removes the requirement to conduct at least one day of nonwagering thoroughbred racing with a \$250,000 purse per year for two consecutive years.

The bill amends the requirement that the limited intertrack wagering license not be issued for a facility within 50 miles of any thoroughbred racing permitholder's track, by limiting such issuance to 50 miles of any for-profit thoroughbred racing licensed track. The bill also removes the requirement for consent of all other permitholders in the same county, in order for the limited intertrack wagering permitholder to conduct intertrack wagering on any type of pari-mutuel racing or game.

**Section 25** of the bill amends s. 551.101, F.S., (Line 1644, page 57), to restate current law to restrict the possession of slot machines and require the conduct of slot machine gaming at licensed facilities. The bill removes obsolete language.

**Section 26** of the bill amends s. 551.102, F.S., (Line 1663, page 58), to revise the definition of the term "eligible facility" to remove substantive provisions relating to qualifications for licensing of a facility pursuant to s. 551.104, F.S., and moves those qualification requirements to s. 551.104, F.S. The bill also makes conforming changes.

**Section 27** of the bill amends s. 551.104, F.S., (Line 1694, page 59), to provide the requirements for a licensed pari-mutuel facility to be eligible for a slot machine license to be issued, if it is first determined that a reduction in revenue-sharing payments under the Gaming Compact between the Seminole Tribe of Florida and the State of Florida would not be triggered:

- A facility where live racing or games were conducted during calendar years 2002 and 2003 which is located in Miami-Dade County or Broward County and is authorized for slot machine licensure pursuant to s. 23, Art. X of the State Constitution;
- A facility where a full schedule of live horseracing has been conducted for 2 consecutive calendar years immediately preceding its application for a slot machine license and which is located within a county as defined in s. 125.011; and
- A licensed pari-mutuel facility authorized under s. 551.1041.

The bill authorizes greyhound racing permitholders that have conducted a full schedule of live racing for a period of at least 10 consecutive years after 2002-2003 or a thoroughbred racing permitholder that holds a slot machine license if it has an agreement to conduct its race meet at another thoroughbred permitholder's facility, to conduct slot machine gaming at its slot machine facility.

The bill requires each slot machine licensee that does not offer live racing to withhold two percent of its net revenue to be deposited into a purse pool to be paid as purses to licensed pari-mutuel facilities offering live racing or games. This provision does not apply to the additional slot machine licensees awarded a license pursuant to s. 551.1041.

**Section 28** of the bill creates s. 551.1041 (Line 1748, page 61) to provide the procedure by which two additional slot machine licenses may be issued for locations in Miami-Dade and Palm Beach counties. The bill requires a referendum in each county to be held after July 1, 2016.

The bill sets forth the process for award of the additional slot machine licenses:

- An application must be made by sealed bid;
- The award will be made to the highest bidder, based on prequalification criteria that, at a minimum, evidence that the bidder:
  - Meets the qualifications in ch. 550 and ch. 551, as applicable; and
  - Has purchased, or entered into an agreement to purchase and transfer, an active pari-mutuel permit with the intent to surrender and void such permit, as provided in s. 550.1751.
- The minimum bid is \$3 million, and if no minimum bids are received, the award process will begin upon the initiative of division or upon the receipt of a petition by a potential bidder to start the bid process; and
- The number of slot machines that may be offered for play before October 1, 2018 may not exceed 500 slot machines and 250 video race terminals; on or after October 1, 2018, the number of slot machines may not exceed 750 slot machines and 750 video race terminals.

The bill states the requirements for slot machines and video race terminals authorized for the additional slot machine licensees that may be awarded a license for a location in Miami-Dade or Palm Beach counties:

- A wager on a slot machine or a video race terminal may not exceed \$5 per game or race;
- Only one game or race may be played at any given time on a slot machine or video race terminal, and a player may not wager on a new game or race until the previous game or race has been completed;

- Slot machines and video race terminals may not offer games that use tangible playing cards, but may have games that use electronic or virtual cards;

The bill provides that the term “video race terminal” mean an individual racing terminal linked to a central server as part of a network-based video game in which the terminals allow pari-mutuel wagering by players on the results of previously conducted horse races, but only if the game is certified in advance by an independent testing laboratory licensed or contracted by the division as complying with all of the following requirements:

- All data on previously conducted horse races must be stored in a secure format on the central server, which must be located at the pari-mutuel facility;
- Only horse races that were recorded at licensed pari-mutuel facilities in the United States after January 1, 2005, may be used;
- After each wager is placed, the video race terminal must display a video of at least the final seconds of the horse race before any prize is awarded or indicated on the video race terminal;
- The display of the video of the horse race must be shown on the video race terminal’s video screen;
- Mechanical reel displays are prohibited;
- A video race terminal may not contain more than one player position for placing wagers;
- Coins, currency, or tokens may not be dispensed from a video race terminal; and
- Prizes must be awarded based solely on the results of a previously conducted horse race, and no additional element of chance may be used. A random number generator must be used to select from the central server the race to be displayed to the player(s) and to select numbers or other designations of race entrants that will be used in the various bet types for any “Quick Pick” bets. To prevent a player from recognizing the race based on the entrants and identifying the outcome of the race before placing a wager, the entrants of the race may not be identified until after all wagers for that race have been placed.

**Section 29** of the bill creates s. 551.1042 (Line 1851, page 64) to prohibit the transfer or relocation of slot machine licenses.

**Section 30** of the bill amends s. 551.106, F.S., (Line 1858, page 64), to remove obsolete language, and reduces the tax on slot machine revenues from 35 percent to 30 percent.

**Section 31** of the bill amends s. 551.114, F.S., (Line 1898, page 66), by reducing the number of machines that may be available to play in a slot gaming area to 1,700 from 2,000. The bill requires a greyhound racing permitholder, jai alai permitholder, harness racing permitholder, or quarter horse permitholder that no longer offers live performances to operate slot machines only within the gaming area in the eligible facility for which the initial annual slot machine license was issued.

**Section 32** of the bill amends s. 551.116, F.S., (Line 1923, page 67), to extend the number of hours that a slot machine gaming area may be open on weekdays, from 18 hours, to 24 hours, which matches the authorized operating hours on weekends.

**Section 33** of the bill amends s. 551.121, F.S., (Line 1931, page 67), to allow complimentary or reduced-costs alcoholic beverages to be served to a person playing a slot machine. The bill

provides that a slot machine licensee may allow automatic teller machines (ATMs) or similar devices designed to provide credit or dispense cash, to be located in the gaming area.

**Section 34** of the bill amends s. 849.086, F.S., (Line 1943, page 67), regarding the operation of cardrooms, to:

- Amend the definition of “authorized game” to mean a game or series of card and domino games that are played in conformance with the provision of the bill; for authorized games of poker or dominoes, a nonplaying live dealer employed by the cardroom operator must be provided at each game table;
- Revise the definition of “banking game” to delete games in which the cardroom establishes a bank against which participants play;
- Revise the definition for cardroom to state that authorized games and cardrooms do not constitute casino gaming operations, but only if they are conducted at an eligible facility;
- Define the term “designated player game” as a game consisting of at least three cards in which the players compare their cards only to the cards of the designated player; the “designated player” is the player in a designated player game who is identified as the player in the dealer position, is seated in a traditional player position, and who pays winning players and collects from losing players;
- Create an exception for the location of a cardroom by a thoroughbred racing permitholder that holds a slot machine license, but conducts its race meet at another location, if the permitholder has entered into an agreement with another thoroughbred racing permitholder to conduct its race meet at the other thoroughbred racing permitholder’s facility. The cardroom must be operated at the slot facility stated in the permitholder’s slot machine license;
- Remove certain live racing requirements for renewal of a cardroom license by permitholders;
- Exempt certain greyhound racing permitholders from live racing, if they conducted a full schedule of live racing for a period of at least 10 consecutive state fiscal years after the state Fiscal Year 1996-1997, or that converted a permit to a permit to conduct greyhound racing after that state fiscal year. Those greyhound racing permitholders who are not conducting a full schedule of live racing must conduct intertrack wagering on thoroughbred signals, to the extent available, on each day of cardroom operation;
- Extend the hours a cardroom may be open on weekdays, from 18 hours, to 24 hours, which matches the authorized operating hours on weekends;
- Prohibit cardrooms from conducting any game not authorized.
- Revise provisions relating to contributions to purses to apply to those pari-mutuel permitholders that offer live racing.
- Prohibit the transfer or reissuance in the nature of transfer, of a cardroom license that would result in a change of location of a cardroom, and removes provisions relating to the procedure for obtaining consent by referendum for a change in location of a cardroom.
- Authorize designated player games, under the following conditions:
  - Cardroom operators that do not possess a slot machine license may offer the games;
  - Licensed pari-mutuel facilities that offer slot machine gaming or video race terminals may not offer the games;
  - The maximum wager in such games may not exceed \$25;
  - The games must meet certain requirements, including who may be a designated player, how often, how the position of designated player moves among players, and how bets may be covered;

- Provides criteria which the cardroom must meet including maximum makeup of the number of authorized game tables at the cardroom;
- The cardroom operator may not serve as a designated player in any game, and may not have any direct or indirect financial or pecuniary interest in a designated player in any game;
- A designated player may only wager personal funds or funds from a sole proprietorship, must operate independently, and may not be directly or indirectly financed or controlled by another party;
- Designated player games offered by a cardroom operator may not make up more than 25 percent of the total authorized game tables at the cardroom; and
- Designated player games may only be approved by the division if such games would not trigger a reduction in revenue-sharing payments under the Gaming Compact.

**Section 35** of the bill (Line 2310, page 80) provides that the division must revoke any permit to conduct pari-mutuel wagering if a permit holder has not conducted live events within the 24 months preceding the effective date of the bill, unless the permit is a limited thoroughbred racing permit that was issued under s. 550.3345, F.S. A permit revoked for failure to conduct live events within the 24 months preceding the effective date of the bill may not be reissued.

**Section 36** of the bill (Line 2317, page 80), provides that the provisions of the bill are not severable. If the bill or any of its provisions are determined to be unconstitutional, or the applicability thereof to any person or circumstance is held invalid:

- All other provisions or applications of the provisions of the bill are invalid; and
- The bill is considered never to have become law.

**Section 37** of the bill (Line 2324, page 81) states the requirements for SPB 7072 to become effective. The bill requires the enactment of SB 7074, respecting the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, or similar legislation ratifying the Gaming Compact between the Seminole Tribe of Florida and the State of Florida executed by the Governor and the Seminole Tribe of Florida on December 7, 2015 (the 2015 Gaming Compact).

In addition, the bill requires approval of the 2015 Gaming Compact by the United States Department of the Interior (Department of the Interior) as required under the Indian Gaming Regulatory Act of 1988. SPB 7072 will be effective upon the date of publication of such approval by the Department of the Interior in the Federal Register.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

- C. Trust Funds Restrictions:
- D. Other Constitutional Issues:

Article III, section 10, of the Florida Constitution forbids the Legislature to pass a special law without either providing advance notice of intent to enact the law or conditioning the law's effectiveness upon a referendum of the electors of the areas affected.<sup>46</sup> As the term is used in the Florida Constitution, a special law is “a special or local law, and case law defines “special law,” “local law,” and “general law” as follows:

[A] special law is one relating to, or designed to operate upon, particular persons or things, or one that purports to operate upon classified persons or things when classification is not permissible or the classification adopted is illegal; a local law is one relating to, or designed to operate only in, a specifically indicated part of the state, or one that purports to operate within classified territory when classification is not permissible or the classification adopted is illegal.

A general law operates universally throughout the state, or uniformly upon subjects as they may exist throughout the state, or uniformly within permissible classifications by population of counties or otherwise, or is a law relating to a state function or instrumentality.<sup>47</sup>

The provisions in s. 551.1041 for the issuance of one slot machine license in Miami-Dade County, and one slot machine license in Palm Beach County (in addition to the four existing slot machine licenses in Miami-Dade County, and the four existing slot machine licenses in Broward County) do not operate universally or uniformly throughout the state. Therefore, the bill requires in subsection (3) of s. 551.1041 that additional slot machine licenses may not be issued in Miami-Dade or Palm Beach counties, until a majority of the voters in the county where the proposed slot machine gaming facility is to be located have approved slot machines at that facility in a referendum to be held after July 1, 2016.

## V. Fiscal Impact Statement:

- A. Tax/Fee Issues:

An impact conference will be required to evaluate the provisions of SPB 7072. Similar provisions to those in the bill respecting the option granted to greyhound racing permitholders to continue with or discontinue live racing, were evaluated by the Revenue Estimating Conference (REC) on April 16, 2015. The REC assessed the impact of SPB

<sup>46</sup> *DeBary Real Estate Holdings, LLC v. State Dept. of Bus. and Prof'l. Reg.*, 112 So.3d 157, 163 (Fla. 1st DCA 2011).

<sup>47</sup> *Id.* (quoting *State ex rel. Landis v. Harris*, 120 Fla. 555, 163 So. 237, 240 (1934)).

7088, regarding Gaming,<sup>48</sup> which largely mirrors the provisions in SPB 7072 regarding the ending of live racing requirements for greyhound racing permitholders. The REC reviewed provisions in SPB 7088 that included:

- For greyhound racing permitholders, beginning in Fiscal Year 2015-2016, and each fiscal year thereafter, the removal of minimum live performance requirements associated with:
  - Applications for annual pari-mutuel operating license;
  - The conduct of intertrack wagering;
  - Renewal of annual slot machine license; provided the designated slot machine gaming areas may only be located within the eligible facility for which the division issued the initial annual slot machine license; and
  - Renewal of annual cardroom license; provided such permitholder conducts intertrack wagering on greyhound races that are broadcast, to the extent available, on each day of cardroom operations.
- Authorization for a greyhound racing permitholder to amend its operating license for Fiscal Year 2015-2016, through August 31, 2015.

The REC noted the removal of certain tax credits for greyhound racing permitholders that conduct live racing each state fiscal year:

- Exemption tax credit: The three permitholders (Washington County Kennel Club, Pensacola Greyhound, and Jefferson County Kennel Club) that conducted a full schedule of live racing in 1995, and are closest to another state that authorizes greyhound pari-mutuel wagering, receive a credit of \$500,000; all other greyhound racing permitholders exemption tax credit in the amount of \$360,000;
- Daily license fee credit; and
- The unclaimed pari-mutuel tickets (escheated tickets) credit.<sup>49</sup>

Other changes in SPB 7088 that were noted by the REC:

- Amendment of the effective tax rates for host greyhound racing permitholders to a single rate of 1.28 percent for all handle types;
- Removal of the requirement that a greyhound racing permitholder pay the \$80 daily license fee for each live or simulcast race;
- Elimination of the authorization for greyhound racing permitholders to conduct charity days in addition to their regular racing days.
- Removal of the limit of a maximum of 20 percent of the total number of races on which wagers are accepted by certain greyhound racing permitholders not located as specified in s. 550.615(6), F.S., may receive from locations outside the state.

All estimates include:

- Loss in daily license fees from all greyhound tracks;

<sup>48</sup> See [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/\\_pdf/page462-466.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/page462-466.pdf) (last accessed Feb. 8, 2016).

<sup>49</sup> Section 550.1645, F.S., provides that after one year, the winnings from all unclaimed pari-mutuel tickets become property of the state. Permitholders must pay the unclaimed (escheated) winnings to the state. The funds are deposited into the State School Fund and are used for the maintenance of “public free schools,” as required by FLA. CONST. art.IX, s. 6.

- Amending the effective tax rates for host greyhound permitholders to a single tax rate of 1.28 percent for all handle types;
- Adding 60 percent of live and intertrack handle from those that cease or reduce live racing and recapture through intertrack wagering and applying an effective tax rate of 1.28 percent; and
- Removing applicable tax credits that are no longer applicable.

Jefferson Kennel Club was not licensed to operate, and is not included in the estimates.

The REC calculated loss in taxes from six permitholders likely to cease live racing, one that is likely to reduce live races by 50 percent, and six that are likely to reduce live racing by approximately 40 percent. Overall, greyhound racing live racing performances were estimated to be reduced by approximately 42 percent.

The (loss) or gain in tax revenue is projected by the REC as follows (middle estimate):<sup>50</sup>

- Fiscal Year 2015-2016 (\$307,335)
- Fiscal Year 2016-2017 (\$86,092)
- Fiscal Year 2017-2018 \$81,632
- Fiscal Year 2018-2019 \$209,940
- Fiscal Year 2019-2020 \$308,171

#### B. Private Sector Impact:

Pari-mutuel permitholders who hold active, dormant, and inactive permits must evaluate the impact of the provisions of the bill on their operations and business interests. Greyhound racing permitholders, jai alai permitholders, harness racing permitholders, and quarter horse permitholders must determine, on an annual basis, whether to offer live racing or games at their pari-mutuel facilities. Ending the requirement for the offering of live racing or games by these types of permitholders is known as “decoupling.”

#### C. Government Sector Impact:

The Division of Pari-mutuel Wagering (division) must implement the provisions of the bill, and establish forms and procedures for the pari-mutuel permit reduction program, and for the issuance of additional slot machine licenses in Miami-Dade and Palm Beach counties.

Recordkeeping and producing documents in response to public records requests for injury reports on racing greyhounds will have an indeterminate impact on the workload of the division, depending on the number of injury reports that are filed. The department estimated the fiscal impact to the state in 2014-2015 from a low of \$60,727 if it collects reports and serves as a repository (one additional staff), to a high of \$425,163 if it

<sup>50</sup> See <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/pdf/page462-466.pdf> (last accessed Feb. 8, 2016) at 463-465.



reviews the reports, assesses the accuracy of reports, investigates false statements, and pursues administrative action (five additional staff and three additional vehicles).<sup>51</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill requires the enactment of SB 7074, respecting the Gaming Compact Between the Seminole Tribe of Florida and the State of Florida, or similar legislation ratifying the Gaming Compact between the Seminole Tribe of Florida and the State of Florida executed by the Governor and the Seminole Tribe of Florida on December 7, 2015 (the 2015 Gaming Compact).

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 550.002, 550.01215, 550.0251, 550.054, 550.0951, 550.09511, 550.09512, 550.09514, 550.09515, 550.1625, 550.1648, 550.26165, 550.3345, 550.3551, 550.375, 550.615, 550.6305, 550.6308, 551.101, 551.102, 551.104, 551.106, 551.114, 551.116, 551.121, and 849.086.

This bill creates the following sections of the Florida Statutes: 550.1751, 550.1752, 550.2416, 551.1041, and 551.1042.

This bill repeals the following sections of the Florida Statutes: 550.0555, 550.0745, and 550.1647.

**IX. Additional Information:**

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

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

None.

**B. Amendments:**

None.

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

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<sup>51</sup> See 2015 Department of Business and Professional Regulation Legislative Bill Analysis for Senate Bill 2 (January 15, 2015) (on file with Senate Committee on Regulated Industries).