

Tab 1	SB 2-A by Hutson; (Identical to H 00001A) Implementation of the 2021 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida					
129742	A	S	AP, Book	Delete L.70 - 76:	05/17 09:05 AM	
927450	SA	S	AP, Farmer	Delete L.69 - 85:	05/17 12:55 PM	
761054	A	S	AP, Hutson	Delete L.123 - 130:	05/17 10:49 AM	
Tab 2	SB 4-A by Hutson; (Similar to H 00003A) Gaming Enforcement					
801814	A	S	AP, Gibson	Delete L.194:	05/16 07:02 PM	
119926	A	S	AP, Gibson	Delete L.194:	05/17 12:24 PM	
476296	A	S	AP, Hutson	Delete L.698 - 702:	05/17 10:50 AM	
Tab 3	SB 6-A by Hutson; (Identical to H 00005A) Public Records and Public Meetings/Florida Gaming Control Commission					
Tab 4	SB 8-A by Hutson; (Identical to H 00007A) Gaming					
406258	A	S	AP, Hutson	Delete L.459 - 465:	05/17 10:50 AM	
Tab 5	SB 10-A by Hutson; (Compare to H 00001A) Bingo					
Tab 6	SB 12-A by Hutson; Taxes/Bingo Operators					
Tab 7	SB 14-A by Hutson; Fees/Bingo Licenses					
Tab 8	SB 16-A by Hutson; (Similar to H 00009A) Fantasy Sports Contest Amusement Act					
871360	A	S	AP, Hutson	Delete L.89 - 329:	05/17 12:17 PM	
Tab 9	SB 18-A by Hutson; (Similar to H 00011A) Fees/Fantasy Contest Operator License					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Stargel, Chair
Senator Bean, Vice Chair

MEETING DATE: Monday, May 17, 2021

TIME: 2:00—6:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Stargel, Chair; Senator Bean, Vice Chair; Senators Albritton, Book, Bracy, Brandes, Broxson, Diaz, Farmer, Gainer, Gibson, Hooper, Hutson, Mayfield, Passidomo, Perry, Pizzo, Powell, Rouson, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 2-A Hutson (Identical H 1-A, Compare H 3-A, H 7-A, Linked S 4-A, S 8-A, S 10-A, S 16-A)	Implementation of the 2021 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida; Providing for legislative approval and ratification of a gaming compact between the Seminole Tribe of Florida and the state; requiring the Governor to cooperate with the Tribe in seeking approval and ratification of such compact from the United States Secretary of the Interior; authorizing the Tribe to conduct additional games, contests, and sports betting; providing age requirements for wagering on fantasy sports contests and sports betting; providing conditions, requirements, and prohibitions relating to poker games played in a designated player manner, etc.	
		AP	05/17/2021
2	SB 4-A Hutson (Similar H 3-A, Compare H 5-A, S 10-A, S 16-A, Linked S 2-A, S 6-A)	Gaming Enforcement; Expanding the authority of the Office of Statewide Prosecution within the Department of Legal Affairs to investigate and prosecute certain crimes referred by the Florida Gaming Control Commission; creating the Florida Gaming Control Commission within the Office of the Attorney General; creating the Division of Gaming Enforcement within the commission; specifying that certain persons are ineligible for appointment to or employment with the commission; providing standards of conduct for commissioners and employees of the commission, etc.	
		AP	05/17/2021

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 17, 2021, 2:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 6-A Hutson (Identical H 5-A, Compare H 3-A, Linked S 4-A)	Public Records and Public Meetings/Florida Gaming Control Commission; Specifying that any exempt or confidential and exempt information obtained by the Florida Gaming Control Commission retains its exempt or confidential and exempt status; providing an exemption from public meetings requirements for portions of meetings of the commission wherein exempt or confidential and exempt information is discussed, provided certain requirements are met; providing for the future review and repeal of the exemption; providing a statement of public necessity, etc. AP 05/17/2021	
4	SB 8-A Hutson (Identical H 7-A, Compare H 1-A, Linked S 2-A)	Gaming; Revising the application requirements for an operating license to conduct pari-mutuel wagering for a pari-mutuel facility; prohibiting greyhound permitholders from conducting live racing; specifying that certain permitholders that do not conduct live racing or games retain their permit and remain pari-mutuel facilities; specifying that, if such permitholder has been issued a slot machine license, the permitholder's facility remains an eligible facility, continues to be eligible for a slot machine license, is exempt from certain provisions of ch. 551, F.S., is eligible to be a guest track, and, if the permitholder is a harness horse racing permitholder, is eligible to be a host track for intertrack wagering and simulcasting and remains eligible for a cardroom license, etc. AP 05/17/2021	
5	SB 10-A Hutson (Compare H 1-A, S 4-A, Linked S 2-A, S 12-A, S 14-A)	Bingo; Requiring applicants for an operating license to include dates the applicant intends to conduct bingo games or instant bingo; specifying that it is not a crime for a person to participate in bingo games or instant bingo under certain circumstances; authorizing bingo operators to charge fees for players participating in bingo games; authorizing a bingo operator to refuse entry to certain persons or refuse to allow certain persons to play bingo under certain circumstances; specifying that certain activities relating to bingo games and instant bingo are not subject to certain gambling-related prohibitions, etc. AP 05/17/2021	

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 17, 2021, 2:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 12-A Hutson (Linked S 10-A)	Taxes/Bingo Operators; Requiring bingo operators to pay a specified tax relating to monthly gross receipts; providing requirements for the tax payments; requiring bingo operators to file monthly reports containing specified information; providing civil and administrative penalties for failing to make the required tax payments; providing requirements for certain funds deposited into the Pari-mutuel Wagering Trust Fund, etc.	
		AP 05/17/2021	
7	SB 14-A Hutson (Linked S 10-A)	Fees/Bingo Licenses; Revising the Division of Pari-mutuel Wagering's authorizations relating to bingo games and instant bingo to include authorizations relating to fees; establishing an annual fee for a bingo license; setting limits on the amount that may be charged for bingo employee occupational license fees and bingo business occupational license fees; requiring such fees to be deposited into the Pari-mutuel Wagering Trust Fund, etc.	
		AP 05/17/2021	
8	SB 16-A Hutson (Similar H 9-A, Compare H 1-A, S 4-A, Linked S 2-A, S 18-A)	Fantasy Sports Contest Amusement Act; Creating the "Fantasy Sports Contest Amusement Act"; providing for the enforcement and administration of the Fantasy Sports Contest Amusement Act; providing application requirements for fantasy sports contest operator licenses; providing that specified persons or entities are not eligible for licensure under certain circumstances; requiring a contest operator to implement specified consumer protection procedures under certain circumstances; requiring contest operators to keep and maintain certain records for a specified period; prohibiting the Governor from soliciting or requesting certain information from a person with a license to conduct fantasy sports contests; specifying that certain activities relating to fantasy sports contests are not subject to certain gambling-related prohibitions, etc.	
		AP 05/17/2021	

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Monday, May 17, 2021, 2:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 18-A Hutson (Similar H 11-A, Compare H 9-A, Linked S 16-A)	Fees/Fantasy Contest Operator License; Requiring applicants for a fantasy contest operator license to pay a specified application fee; requiring contest operators to pay a specified annual license renewal fee; prohibiting such fees from exceeding a specified amount; requiring contest operators to remit certain fees; specifying that the costs for certain fingerprint processing and retention shall be borne by applicants; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to charge a specified handling fee related to fingerprint processing, etc.	AP 05/17/2021

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 Committee on Appropriations

BILL: SB 2A

INTRODUCER: Senator Hutson

SUBJECT: Implementation of the 2021 Gaming Compact

DATE: May 14, 2021

REVISED: 5/17/21

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1	<u>Kraemer/Imhof</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

I. Summary:

SB 2A ratifies the 2021 Gaming Compact executed by the Seminole Tribe of Florida (Seminole Tribe) and by Governor DeSantis on behalf of the State of Florida (state) on April 23, 2021 (the 2021 Gaming Compact).

The bill takes effect only if 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 April 23, 2021, under the Indian Gaming Regulatory Act of 1988, is approved or deemed approved and not voided by the United States Department of the Interior, and shall take effect on the date that notice of the effective date of the compact is published in the Federal Register.

See Section V, Fiscal Impact Statement.

The 2021 Gaming Compact:

- Provides the Seminole Tribe with partial, but significant additional substantial exclusivity for specified gaming activities in Florida, as detailed below;
- Requires the payment of revenue share payments by the Seminole Tribe based on varying percentage rates under specified conditions;
- Includes a guaranteed minimum compact term payment of \$2.5 billion for the first five years (not less than \$400,000 annually, which is assumed to be August 1 to July 31, dependent upon approval date by the Secretary); and
- Has a term ending July 31, 2051.

AUTHORIZED GAMING

The 2021 Gaming Compact:

- Continues to authorize the Seminole Tribe to conduct banking card games, including baccarat, chemin de fer, and blackjack (21), at its gaming facilities; the play of poker games in a designated player manner, if compliant with certain restrictions (discussed in Exceptions

to Exclusive Rights – Continued Poker at Licensed Cardrooms below), is not a violation of exclusivity.

- Permits the Seminole Tribe to offer table games, such as craps and roulette, at its gaming facilities.
- Authorizes sports betting on professional and collegiate sport events by players physically located in the State who may use a mobile or other electronic device, exclusively by and through sports books conducted and operated by the Seminole Tribe, which must contract with any willing, qualified pari-mutuel permitholder to perform marketing and similar services in support of the sports books, for compensation of not less than 60% of the profit associated with wagering by the permitholder's registered patrons through the permitholder's branded website or mobile application. Such wagering is to be deemed to be exclusively conducted by the Seminole Tribe where the servers or other devices used to conduct such wagering activity on the Seminole Tribe's Indian lands are located.
- Authorizes Fantasy Sports Contests; wagers on fantasy sports contests, including wagers made by players physically located within the State using a mobile or other electronic device, which wagering is to be deemed to be exclusively conducted by the Seminole Tribe where the servers or other devices used to conduct such wagering activity on the Seminole Tribe's Indian lands are located.
- Continues to authorize the Seminole Tribe to conduct slot machine gaming at its gaming facilities.
- Allows the Seminole Tribe to add up to three additional facilities within its Hollywood Reservation.
- Specifies that the Seminole Tribe may employ a management contractor or licensee, as permitted by the Indian Gaming Regulatory Act (IGRA) and Code of Federal Regulations (C.F.R.), but the Seminole Tribe remains solely responsible for the operation of slot machine gaming, craps, roulette, banking card games, fantasy sports contests, and sports betting (Covered Games or Covered Gaming Activity).
- Provides that the State and the Seminole Tribe agree to engage in good faith negotiations within 36 months after the Effective Date of the 2021 Gaming Compact to consider an amendment to the 2021 Gaming Compact to authorize the Seminole Tribe to offer all types of Covered Games online or via mobile devices to players physically located in the state, where such wagers made using a mobile device or online shall be deemed to take place exclusively where received at the location of the servers or other devices used to conduct such wagering activity at a tribal gaming facility. Any dispute as to whether a party has engaged in good faith negotiations is not subject to suit nor a waiver of the state's sovereign immunity from suit.

GAMING COMPLIANCE STANDARDS AND REQUIREMENTS

The 2021 Gaming Compact:

- Specifies the operation of Covered Gaming Activity on tribal facilities must comply with the:
 - Federal Wire Act (18 United States Code § 1084).
 - Seminole Tribal Gaming Code approved by the National Indian Gaming Commission (NIGC).
 - Rules and Regulations promulgated by the Seminole Tribal Gaming Commission, the tribal governmental agency with authority to carry out the Seminole Tribe's regulatory and oversight responsibilities under the gaming compact.

- National Indian Gaming Commission's Guidance for Class III Minimum Internal Control Standards.
- Requires the Seminole Tribe to:
 - Pay an annual oversight assessment of up to \$600,000 to be used for the operation of the State Compliance Agency; if any additional tribal gaming facilities are added as authorized under the 2021 Compact, the assessment increases by \$150,000 annually, per additional facility.
 - Make an annual donation to the Florida Council on Compulsive Gaming as an assignee of the state of \$250,000 per operational gaming facility.
 - Have compliance audits prepared for slot machine operations and sports betting operations.
 - Limit the play of Covered Games to persons who must be 21 years of age or older, unless otherwise permitted by state law.
 - Prevent illegal activity at its gaming facilities.
 - Prevent illegal activity associated with its web applications and websites employed for sports betting.
 - Ensure prompt notice is given to law enforcement authorities about persons who may be involved in illegal acts.
 - Ensure that its gaming facilities comply with Florida Building Code standards.

EXCEPTIONS TO EXCLUSIVE RIGHTS GRANTED TO THE SEMINOLE TRIBE

The 2021 Gaming Compact provides exceptions to the Seminole Tribe's exclusive rights, including:

- Continued slot machine gaming at the eight pari-mutuel permitholder locations in Broward and Miami-Dade counties, with certain actions requiring written consent of the Seminole Tribe relating to proximity to tribal gaming facilities; slot machines may not offer games using tangible playing cards, but may offer games using electronic or virtual cards.
- Continued operation of electronic bingo card minders and historic racing machines at pari-mutuel facilities located outside of counties with slots facilities (not more than 350 total per facility).
- Continued operation of pari-mutuel wagering activities at licensed facilities.
- Continued poker at licensed cardrooms, including poker games played in a designated player manner, in which one player is permitted, but not required, to cover other players' wagers, for games that were approved by the Department of Business and Professional Regulation before April 1, 2021, and a limitation on the number of tables depending on whether slot machine gaming is authorized in the county where the cardroom is located.
- No cardroom operator may have any direct economic interest in a designated player game except for the rake; and
- No card room operator may receive any portion of the designated player's winnings.
- Continued operation of lottery games and the use of lottery vending machines by the Florida Lottery, including certain technologic enhancements for lottery games, and the use of a device or the Internet to scan play slips and communicate winning numbers for draw lottery games.
- Operation of amusement games authorized by ch. 546, F.S.

- Operation of bingo games and instant bingo, as authorized by s. 849.089, F.S. (at licensed pari-mutuel facilities, to include the use of electronic bingo card minders outside of Broward and Miami-Dade counties), and as authorized by s. 849.0931, F.S. (by charitable organizations, to include the use hand-held and table-top card minders).
- Operation of fantasy sports contests.
- Provision of marketing services by a qualified pari-mutuel permitholder pursuant to a written agreement with the Seminole Tribe associated with the Seminole Tribe's operation of sports betting.

The 2021 Gaming Compact provides there is no exclusivity violation related to the authorization of fantasy sports contests in the state.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷ and
- Cardrooms⁸ at licensed pari-mutuel facilities.⁹

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁰

The 1968 State Constitution states that “[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .” are prohibited.¹¹ A

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. See s. 550.002(22), F.S.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. See s. 849.086(2)(c), F.S., which 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 charged a fee for participation by the operator of such facility.”

⁹ The Department of Business and Professional Regulation (DBPR) issued licenses to permitholders with 2020-2021 Operating Licenses to operate 27 cardrooms. See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited May 11, 2021).

¹⁰ 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).

¹¹ The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.¹²

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,¹³ bingo,¹⁴ charitable drawings,¹⁵ game promotions (sweepstakes),¹⁶ and bowling tournaments.¹⁷ The Family Amusement Games Act was enacted in 2015 and authorizes skill-based amusement games and machines at specified locations.¹⁸

Gaming Compacts with the Seminole Tribe of Florida

In 2010, a gaming compact (2010 Gaming Compact) between the Seminole Tribe of Florida (Seminole Tribe) and the State of Florida (state) was ratified by the Legislature.¹⁹ The 2010 Gaming Compact authorizes the Seminole Tribe to conduct certain Class III gaming (see section below on Class III Gaming under the Indian Gaming Regulatory Act) for a 20-year period ending July 31, 2030.

Pursuant to s. 285.710(13), F.S., 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. The 2010 Gaming Compact provides for revenue sharing in consideration for the exclusive authority granted to the Seminole Tribe to offer banked card games on tribal lands and to offer slot machine gaming outside Miami-Dade and Broward counties.

Section 285.710(9), F.S., provides that money received by the state from a gaming compact is to be deposited into the General Revenue Fund and provides for the distribution of three percent of the amount paid by the Seminole Tribe to specified local governments. As designated in s. 285.710, F.S., the Division of Pari-mutuel Wagering of the DBPR carries out the state's oversight responsibilities under the 2010 Gaming Compact.

¹² The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹³ See s. 849.085, F.S.

¹⁴ See s. 849.0931, F.S.

¹⁵ See s. 849.0935, F.S.

¹⁶ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁷ See s. 849.141, F.S.

¹⁸ See s. 546.10, F.S.

¹⁹ Ch. 2010-29, Laws of Fla.

Class III Gaming under the Indian Gaming Regulatory Act

Gambling on Indian lands is regulated by the Indian Gaming Regulatory Act of 1988 (IGRA).²⁰ The 2010 Gaming Compact authorizes the Seminole Tribe to conduct specified Class III gaming activities at its seven tribal facilities in Florida.²¹

Under IGRA, gaming is categorized in 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, other games similar to bingo, and certain non-banked card games if not explicitly prohibited by the laws of the state and if played in conformity with state law; and
- **Class III** gaming includes all forms of gaming that are not Class I or Class II gaming, such as banked card games such as baccarat, chemin de fer, and blackjack (21), casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, slot machines, and pari-mutuel wagering.²²

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)²³ was signed into law by President George W. Bush on October 13, 2006.²⁴ Under this act, internet gambling is not determined to be legal in a state, nor illegal. Instead, UIGEA targets financial institutions in an attempt to prevent the flow of money from an individual to an internet gaming company. Congress found that enforcement of gambling laws through new mechanisms “are necessary because traditional law enforcement mechanisms are often inadequate for enforcing gambling prohibitions or regulations on the Internet, especially where such gambling crosses state or national borders.”²⁵ UIGEA expressly states that none of its provisions “shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.”²⁶

²⁰ See 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.*

²¹ See paragraph F of Part III of the 2010 Gaming Compact. The Seminole Tribe has three gaming facilities 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). The 2010 Gaming Compact was approved by the U.S. Department of the Interior effective July 6, 2010. See 75 Fed. Reg. 38833-38834 at <https://www.gpo.gov/fdsys/pkg/FR-2010-07-06/pdf/2010-16213.pdf> (last visited May 11, 2021).

²² See 25 U.S.C. s. 2703.

²³ 31 U.S.C. ss. 5361-5366.

²⁴ 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.”

²⁵ 31 U.S.C. s. 5361(a)(4).

²⁶ 31 U.S.C. s. 5361(b).

“Unlawful internet gambling” prohibited by UIGEA includes the placement, receipt, or transmission of certain bets or wagers.²⁷ However, the definition of the term “bet or wager” specifically excludes any fantasy game or contest in which a fantasy team is not based on the current membership of a professional or amateur sports team, and:

- All prizes and awards are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of fees by the participants;
- Prize amounts are not based on the number of participants or the amount of entry fees;
- Winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals or athletes in multiple “real-world sporting or other events,” and
- No winning outcome is based:
 - On the score, point-spread, or any performance or performances of any single “real-world” team or combination of teams; or
 - Solely on any single performance of an individual athlete in any single “real-world sporting or other event.”²⁸

While UIGEA excludes bets or wagers of participants in certain fantasy sports games and contests,²⁹ it does not, however, authorize fantasy sports contests and activities in Florida.

The Professional and Amateur Sports Protection Act of 1992 (PASPA)

In 1992, the U.S. Congress enacted the Professional and Amateur Sports Protection Act (PASPA),³⁰ which provided that it is unlawful for a governmental entity or any person to sponsor, operate, advertise, or promote:

...a lottery, sweepstakes, or other betting, gambling, or wagering scheme based...on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.³¹

Under PASPA, governmental entities were also prohibited from licensing such activities (generally known as sports betting) or authorizing them by law or compact.³² However, PASPA did not apply to pari-mutuel animal racing or jai alai games,³³ or to a lottery, sweepstakes, or other betting, gambling, or wagering conducted by a governmental entity between January 1, 1976, and August 31, 1990.³⁴

The prohibition against sports betting also did not apply to a lottery, sweepstakes, or other betting, gambling, or wagering lawfully conducted, where such activity was authorized by law

²⁷ 31 U.S.C. s. 5362(10).

²⁸ See 31 U.S.C. s. 5362(1)(E)(ix).

²⁹ *Id.*

³⁰ 28 U.S.C. ss. 3701-3704.

³¹ 28 U.S.C. s. 3702.

³² *Id.*

³³ 28 U.S.C. s. 3704(a)(4).

³⁴ 28 U.S.C. s. 3704(a)(1).

on October 2, 1991, and was conducted in a state or other governmental entity at any time between September 1, 1989, and October 2, 1991.³⁵

PASPA did not make sports gambling a federal crime, but rather provided a process for bringing civil actions to enforce PASPA against the states. When PASPA was passed by Congress, four states, including Nevada,³⁶ were “grandfathered” and allowed to continue existing forms of sports gambling. PASPA effectively prohibited all other states, including Florida, from legalizing sports gambling within their boundaries.

In *Murphy v. NCAA (Murphy)*,³⁷ the State of New Jersey challenged the constitutionality of PASPA, on the basis that PASPA “commandeers” or impermissibly controls the regulatory power of states relating to the legalization of sports betting, thereby violating the Tenth Amendment to the U.S. Constitution.³⁸ The case arose soon after New Jersey enacted legislation in 2014 to legalize sports gambling in that state, in apparent violation of PASPA. In defense of its legislation, New Jersey asserted that PASPA was unconstitutional. As a result, the case was closely watched throughout the country due to the potential for a broad ruling affecting the authority of all states to legalize sports gambling. The respondents (the National Collegiate Athletic Association, the National Basketball Association, the National Football League, the National Hockey League, and the Office of the Commissioner of Baseball) defended PASPA’s pre-emption of state laws authorizing sports gambling as a valid exercise of congressional power to regulate commerce.³⁹

On May 14, 2018, the United States Supreme Court held that PASPA is unconstitutional and invalid.⁴⁰ The ruling struck down the entire statute, which, absent future Congressional action to the contrary, appears to allow states to enact legislation to authorize sports betting in their jurisdictions.

Amendment 3 to the State Constitution (Voter Control of Gambling)

During the 2018 General Election, the electorate approved a constitutional amendment (Amendment 3, Voter Control of Gambling in Florida). The amendment is codified as Section 30 of Article X of the State Constitution.⁴¹

³⁵ See 28 U.S.C. s. 3704(a)(2).

³⁶ The states allowed to continue their existing forms of sports gambling are Nevada, Montana, Delaware, and Oregon.

³⁷ *Murphy v. NCAA (Murphy)*, 138 S.Ct. 1461 (2018). The original style of the case was *Christie v. National Collegiate Athletic Association*, Case No. 16-476 which was consolidated with *New Jersey Thoroughbred Horsemen’s Assoc. v. National Collegiate Athletic Association*, Case No. 16-477. The style was changed to *Murphy v. National Collegiate Athletic Association* upon the election of Philip D. Murphy as Governor of the State of New Jersey. See https://www.supremecourt.gov/DocketPDF/16/16-476/28553/20180119165048861_16-476%20Letter%20to%20SCT%20re%20name%20change.pdf (last visited May 11, 2021).

³⁸ *Id.*

³⁹ See the respondents’ Brief in Opposition at <http://www.scotusblog.com/wp-content/uploads/2016/12/16-476-16-477-BIO.pdf> at 17 (last visited May 11, 2021).

⁴⁰ See *Murphy*, *supra* note 36.

⁴¹ See the text of Amendment 3, now codified as art. X, s. 30, at <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes&CFID=44933245&CFTOKEN=f39b1ca7cab71561-BE329BC7-5056-B837-1A6123F335C4849F#A10S30> (last visited May 11, 2021).

Amendment 3 requires a vote proposed by a citizen initiative to amend the State Constitution pursuant to Section 3 of Article XI of the State Constitution to authorize “casino gambling” in Florida. Casino gambling is defined in section (b) of Amendment 3 as:

- Any of the “types of games typically found in casinos” and that are:
 - Within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.; and
 - In 25 [Code of Federal Regulations] (C.F.R.) s. 502.4 upon the adoption of the amendment and any that are added to such definition of Class III gaming in the future.

Section (b) of Amendment 3 provides that casino gambling includes, but is not limited to, the following:

- Any house banking game, including but not limited to, card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
- Any player-banked game that simulates a house banking game, such as California blackjack;
- Casino games such as roulette, craps, and keno;
- Any slot machines as defined in 15 U.S.C. 1171(a)(1); and
- Any other game not authorized by Article X, section 15 [of the State Constitution, relating to state operated lotteries], whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing.

Section (b) of Amendment 3 also further defines “casino gambling” to include the following:

- Any electronic gambling devices;
- Simulated gambling devices;
- Video lottery devices;
- Internet sweepstakes devices; and
- Any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under the Indian Gaming Regulatory Act.

Under Amendment 3, the term “casino gambling” does not include:

...pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions.

For the purposes of [Amendment 3], “gambling” and “gaming” are synonymous.

Additionally, Amendment 3 provides:

Nothing [in Amendment 3] shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities. In addition, nothing [in Amendment 3] shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to

compacts executed by the state and Native American tribes pursuant to [the Indian Gaming Regulatory Act].

By its terms, Amendment 3 became effective on November 6, 2018, is self-executing, and no legislative implementation is required. If any part of Amendment 3 is held invalid for any reason, the remaining portion(s) must be severed from the invalid portion and given “the fullest possible force and effect.”

Gaming Compacts

The 2010 Gaming Compact between the state and the Seminole Tribe, and any future gaming compact between those parties, are not impacted by Amendment 3. Amendment 3 expressly exempts such compacts and provides that the amendment does not limit the ability of the state and Native American tribes to:

- Negotiate gaming compacts for the conduct of casino gambling on tribal lands; or
- Affect any existing gambling on tribal lands pursuant to existing compacts.⁴²

Fantasy Sports Contests

Fantasy sports contests are not typically found in a casino and are not Class III games, and therefore, are likely not impacted by Amendment 3.

Pari-mutuel Wagering

Amendment 3 does not affect pari-mutuel wagering; the amendment specifically exempts pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions from the definition of “casino gambling.” However, Amendment 3 may prevent any expansion of casino gambling or Class III or casino-style gaming (such as slot machine gaming) at additional pari-mutuel facilities.

Lottery

The operation of the state lottery is not affected by Amendment 3; the amendment provides that the definition of “casino gambling” includes “any other game not authorized by Article X, section 15, . . .” Therefore, the constitutional authorization for a state lottery in Article X, section 15 is not impacted by Amendment 3.

Legislative Regulatory Authority

Amendment 3 does not affect the Legislature’s regulatory authority over casino gambling. The amendment provides that nothing in the amendment “shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities.”

⁴² The state has negotiated and ratified only one gaming compact, the 2010 Gaming Compact, with the Seminole Tribe. The Miccosukee Tribe of Indians of Florida operates a Class II gaming facility in Florida. The Poarch Band of Creek Indians has a one acre tract of land held in trust by the United States Department of the Interior north of Pensacola, Florida.

Sports Betting

Sports betting, i.e., wagering on sporting events, is not expressly addressed in Amendment 3, which provides in section (b) that “casino gambling” means any of the types of games “typically found in casinos” and that are:

- Within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.*,⁴³ and
- In 25 C.F.R. § 502.4⁴⁴ upon the adoption of [Amendment 3] and any that are added to such definition of Class III gaming in the future.

As of January 17, 2018, when the Florida Secretary of State assigned the ballot number for Amendment 3, sports betting was authorized only at Nevada casinos, and sports lotteries were operating in Montana, Delaware, and Oregon.

However, at that time, under the Professional and Amateur Sports Protection Act (PASPA),⁴⁵ it was unlawful for a state to “sponsor, operate, advertise, promote, license, or authorize by law” wagering on sports. When PASPA was passed by Congress, the four states noted above were “grandfathered” and allowed to continue existing forms of wagering on sports. PASPA effectively prohibited all other states, including Florida, from legalizing sports gambling within their boundaries.

Sports betting was illegal outside of Nevada, however, leading to the continuation of sports betting through sports books and off-shore operators and a constitutional challenge by New Jersey (discussed in the PASPA section above).⁴⁶ Over the past 20 years, estimates and studies of the annual amount of illegal sports betting have ranged from \$80 billion to \$380 billion, and the American Gaming Association has estimated annual illegal sports betting in the United States to be about \$150 billion.⁴⁷

Wagering on sporting events does not constitute the playing of a “game,” is not a “device” as described in Amendment 3, and is not typically found in a casino. Therefore, Amendment 3 may be interpreted to mean that sports betting, neither a game nor a device, and not typically found in a casino, does not fall within and is not impacted by, the language in the amendment. However, under 25 C.F.R. s. 502, sports betting is included in Class III.

Application of the Federal Wire Act to Sports Betting

In 2011, in a Memorandum Opinion for the Assistant Attorney General, Criminal Division, the Office of Legal Counsel in the United States Department of Justice addressed whether it was lawful for the States of Illinois and New York to use the Internet and out-of-state transaction processors to sell lottery tickets to in-state adults. The question was whether the federal Wire Act, 18 U.S.C. s. 1084, prohibited the states from conducting in-state lottery transactions over the Internet if the transmissions cross state lines, limiting the use of out-of-state transactions

⁴³ See 25 U.S.C. s. 2701 *et seq.*

⁴⁴ See 25 C.F.R. s. 502.4.

⁴⁵ 28 U.S.C. ss. 3701-3704.

⁴⁶ See also, *Murphy*, *supra* note 36, and the accompanying text.

⁴⁷ *Id.*

processors. The opinion concluded that interstate transmissions of wire communications over the Internet that do not relate to a “sporting event or contest”⁴⁸ fall outside of the reach of the Wire Act. The opinion noted that because the lottery proposals did not involve wagering on sporting events or contests, the Wire Act did not prohibit them.⁴⁹

On November 2, 2018, the United States Department of Justice (DOJ) reinterpreted its 2011 opinion concluding that the prohibitions of the federal Wire Act⁵⁰ are limited to sports gambling, concluding instead that the statutory prohibitions are not uniformly limited to gambling on sporting events or contests.⁵¹ The DOJ determined that only one clause in the Wire Act, which criminalizes transmitting “information assisting in the placing of bets or wagers on any sporting event or contest,” is limited to gambling on sports events, and the other prohibitions apply to non-sports-related betting or wagering that satisfy other required elements of the Wire Act. Therefore, according to the DOJ, application of the Wire Act is no longer limited just to sports gambling.

As a result, various states that relied on the 2011 decision to sell lottery tickets via the Internet challenged the DOJ’s 2018 reinterpretation. The state of New Hampshire filed suit in federal court in early 2019 seeking relief under the federal declaratory judgment and administrative procedure acts. The federal trial court granted the relief requested, ruling that the Wire Act is limited to sports gambling.⁵² The case was appealed by the DOJ, and the federal appellate court recently held that the Wire Act’s prohibitions are limited to bets or wagers on sporting events or contests.⁵³

Slot Machine Gaming Locations and Operations

Section 32 of Art. X of the State Constitution, adopted pursuant to a 2004 initiative petition, authorized slot machines in licensed pari-mutuel facilities in Broward and Miami-Dade counties, if approved by county referendum. The voters in Broward and Miami-Dade counties approved slot machine gaming. Slot machine gaming in the state, by authorized slot machine gaming licensees at specified pari-mutuel facility locations, is limited to Broward and Miami-Dade counties, and as authorized by federal law and the 2010 Gaming Compact, in the tribal gaming facilities of the Seminole Tribe located in Broward County, Collier County, Glades County, Hendry County, and Hillsborough County.

III. Effect of Proposed Changes:

Section 1 amends s. 285.710, F.S., to ratify and approve the gaming compact executed on April 23, 2021, by Governor DeSantis and the Seminole Tribe, which will supersede the 2010 Gaming Compact when the 2021 Gaming Compact becomes effective. In the event the 2021 Gaming Compact is not approved by the Legislature and the United States Secretary of the

⁴⁸ 18 U.S.C. s. 1084(a).

⁴⁹ <https://www.justice.gov/olc/file/2011-09-20-wire-act-non-sports-gambling/download> (last visited May 11, 2021).

⁵⁰ 18 U.S.C. § 1084(a).

⁵¹ See <https://www.justice.gov/olc/file/1121531/download> (last visited May 11, 2021).

⁵² *New Hampshire Lottery Commission v. Barr*, 386 F.Supp. 3d 132 (D. N.H. 2019), which was appealed to the United States Court of Appeals for the First Circuit.

⁵³ See *New Hampshire Lottery Commission v. Rosen*, 986 F.3d 38 (1st Cir. 2021) at p. 5, available at <http://media.ca1.uscourts.gov/pdf/opinions/19-1835P-01A.pdf> (last visited May 11, 2021).

Interior, or is invalidated by court action or change in federal law, the 2010 Gaming Compact remains in effect, and the Seminole Tribe may continue to conduct the gaming activities authorized under the 2010 Gaming Compact.

The 2021 Gaming Compact will become effective after approval by the Secretary of the United States Department of the Interior (Secretary), as required by the Indian Gaming Regulatory Act of 1988 (IGRA) or when notice of approval by the Department of the Interior is published in the Federal Register.⁵⁴

The 2021 Gaming Compact authorizes the Seminole Tribe to conduct the following additional games at its tribal gaming facilities:

- Craps, including dice games such as sic-bo and similar variations.
- Roulette, including big six and similar variations.
- Fantasy Sports Contests; wagers on fantasy sports contests conducted by the Seminole Tribe, including wagers made by players physically located within the state using a mobile or other electronic device, shall be deemed to be exclusively conducted by the Seminole Tribe where the servers or other devices used to conduct such wagering activity on the Seminole Tribe's Indian lands are located.
- Sports Betting; wagers on sports betting on professional and collegiate sport events, including wagers made by players physically located within the state using a mobile or other electronic device, shall be deemed to be exclusively conducted by the Seminole Tribe where the servers or other devices used to conduct such wagering activity on the Seminole Tribe's Indian lands are located. Such sports betting, operated exclusively by and through one or more sports books conducted and operated by the Seminole Tribe at tribal facilities, must include contracts for marketing or similar services for the Seminole Tribe's sports book(s), related to, for and including such wagering undertaken through the use of electronic devices that will utilize the digital sports book(s) provided by the Seminole Tribe, and that use a brand of any willing, qualified pari-mutuel permitholder. See section on qualified pari-mutuel permitholders and obligations of the Seminole Tribe below.
- Authorizes the Seminole Tribe to continue to conduct at its tribal gaming facilities:
 - Banking or banked card games, including baccarat, chemin de fer, blackjack (21), and card games banked by the house, by a bank established by the house, or by a player.
 - Slot machines.
 - Raffles and drawings.
- Requires the Seminole Tribe to pay the State significant amounts of revenue share in exchange for the exclusivity provided in the 2021 Gaming Compact with respect to the operation of the types of gaming that the Seminole Tribe is authorized to conduct, including increases to the existing revenue share brackets under the 2010 Gaming Compact.
- Provides exceptions to the exclusivity provided to the Seminole Tribe for the following:
 - Any Class III Gaming or other casino-style gaming authorized by a compact with a federally recognized tribe pursuant to the Indian Gaming Regulatory Act (IGRA).
 - Continued operation of slot machine gaming, which does not include any game played with tangible playing cards, by the eight currently operating licensed pari-mutuel permitholders in Broward and Miami-Dade counties, subject to consent from the Seminole Tribe for any slot machine license transfers in proximity to tribal gaming

⁵⁴ 25 U.S.C. s. 2710(d)(8).

- facilities, and provided the number of slot machines at any location does not exceed 2,000 machines (which will trigger a reduction in the amount of revenue share payments to the state).
- Operation at each pari-mutuel facility licensed as of January 1, 2021, of a combined total of 350 Historic Racing Machines and Electronic Bingo Card Minders, as defined in the 2021 Gaming Compact.
 - Continued operation of pari-mutuel wagering activities at licensed pari-mutuel facilities.
 - Continued operation of cardrooms offering poker and dominos at pari-mutuel facilities with licensed cardrooms pursuant to Florida law, and poker games played in a designated player manner, where one player is permitted but not required to cover other players' wagers, with certain restrictions. (See **Section 5** below).
 - Operation of Class III Gaming or Other Casino Style Gaming (excluding sports betting or remote/online gaming) at locations more than 100 miles from a tribal gaming facility.
 - Continued operation of lottery games and the use of lottery vending machines by the Florida Department of the Lottery, including certain technologic enhancements for lottery games, and the use of a device or the Internet to scan play slips and communicate winning numbers for draw lottery games.
 - Operation of Fantasy Sports Contests.
 - Operation of bingo games and instant bingo authorized by ch. 849, F.S. (at licensed pari-mutuel facilities).
 - Operation of amusement games authorized by ch. 546, F.S., as of January 1, 2021.
 - Provision of marketing services by a qualified pari-mutuel permitholder pursuant to a written agreement with the Seminole Tribe associated with the Seminole Tribe's operation of sports betting.
 - Expanded gaming conducted pursuant to a constitutional amendment approved pursuant to Section 3 of Article XI of the State Constitution (i.e., citizen initiative) that is funded in whole or in part by the Seminole Tribe.
 - Terminates on July 31, 2051.
 - Continues the provisions of the 2010 Gaming Compact to limit gaming at tribal facilities to persons who are 21 years of age or older.
 - Allows the Seminole Tribe to add three additional facilities on the parcel which is part of the Seminole Tribe's Hollywood Reservation and which is east of the present location of the Florida Turnpike.
 - Allows the Seminole Tribe to employ a management contractor or licensee, as permitted by the Indian Gaming Regulatory Act (IGRA) and the Code of Federal Regulations (C.F.R.), but the Seminole Tribe will remain solely responsible for the operation of authorized gaming (i.e., Covered Games).
 - Provides that the state and the Seminole Tribe agree to engage in good faith negotiations within 36 months after the effective date of the 2021 Gaming Compact to consider an amendment to the 2021 Gaming Compact to authorize the Seminole Tribe to offer all types of covered games online or via mobile devices to players physically located in the state, where such wagers made using a mobile device or online shall be deemed to take place exclusively where received at the location of the servers or other devices used to conduct such wagering activity at a tribal gaming facility, and further provides that any dispute as to whether a party has engaged in good faith negotiations shall not be subject to suit and is not a waiver of the state's sovereign immunity from suit.

- Requires all gaming activity at tribal facilities to comply with federal law, including the Wire Act; the Seminole Tribal Gaming Code approved by the National Indian Gaming Commission (NIGC); the Rules and Regulations promulgated by the Seminole Tribal Gaming Commission; the NIGC's Guidance for Class III Minimum Internal Control Standards.
- Increases the amount of the annual oversight assessment paid by the Seminole Tribe to \$600,000 annually from \$400,000 per year; and if the Seminole Tribe adds any of the additional gaming facilities authorized under the 2021 Gaming Compact, increases the assessment by \$150,000 annually, per additional facility.

Qualified Pari-mutuel Permitholders and Obligations of the Seminole Tribe

The term "qualified pari-mutuel permitholders" in the 2021 Gaming Compact means a person or entity that held a pari-mutuel wagering permit and operating license prior to January 1, 2021, and holds a slot machine license or a cardroom license. All sports betting wagering is deemed at all times to be exclusively conducted by the Seminole Tribe at its tribal facilities where the sports books, including servers and devices to conduct the same, are located.

Sports betting wagering must be undertaken by a patron physically located in Florida and may be conducted by a patron using an electronic device connected via the Internet, web application or otherwise. Such wagering may be undertaken by any patron connected via the Internet, web application or otherwise of any qualified pari-mutuel permitholder, and regardless of the location in Florida at which a patron uses such device.

If the Tribe offers or is offering such wagering, the Seminole Tribe must have a written contract with any and all willing qualified pari-mutuel permitholders which expressly authorizes a qualified pari-mutuel permitholder to perform marketing or similar services for the Seminole Tribe's sports books, related to, for and including such wagering undertaken through the use of electronic devices that will utilize the digital sports book provided by the Seminole Tribe, and that use a brand of the qualified pari-mutuel permitholder. The duration of such contracts must be a minimum of five years, unless terminated by mutual agreement or by material breach.

Within three months of the effective date of the 2021 Gaming Compact, the Seminole Tribe must negotiate in good faith with any and all willing qualified pari-mutuel permitholders to enter into written contracts. If the Seminole Tribe does not have valid written contracts with at least three or more qualified pari-mutuel permitholders after commencement of the Seminole Tribe's sports betting operation, the revenue share payments due to the state for sports betting Net Win⁵⁵ received by the Seminole Tribe will increase by two percent until the Seminole Tribe has valid written contracts with at least three qualified pari-mutuel permitholders. After the Seminole Tribe has written contracts with three or more qualified pari-mutuel permitholders, the Seminole Tribe must make good faith offers upon request by other qualified pari-mutuel permitholders, upon similar terms.

⁵⁵ The term "Net Win" is defined in the 2010 Gaming Compact and the 2021 Gaming Compact as "the total receipts from the play of all Covered Games less all prize payouts and free play or promotional credits issued by the Tribe." See 2021 Gaming Compact Part III, Section T.

The Seminole Tribe must consistently provide to qualified pari-mutuel permitholders in standardized formats, the digital interfaces to market the sports books digitally, including through the qualified pari-mutuel permitholder's development or procurement of customizable web or mobile assets for marketing services. The interfaces published by the Seminole Tribe must facilitate the dynamic and accurate publication of data to qualified pari-mutuel permitholders, and any changes within the sources of truth⁵⁶ contained within the Seminole Tribe's sports book(s) must be distributed in real-time to all qualified pari-mutuel permitholders.

The Seminole Tribe must compensate qualified pari-mutuel permitholders for marketing and similar services by payment of an amount not less than sixty percent of the difference between:

- The Net Win earned by the Seminole Tribe on all such wagering by patrons who access the Seminole Tribe's wagering platform via software that uses a brand of the qualified pari-mutuel permitholder; and
- A reasonable and proportionate share of all expenses incurred by the Seminole Tribe in operating and conducting such wagering through the marketing services of a qualified pari-mutuel permitholder, which must be specified in advance in the written contract between the Seminole Tribe and the qualified pari-mutuel permitholder and reported to the State Compliance Agency (SCA) after being incurred.

Notwithstanding the above, the Seminole Tribe is the exclusive operator of its sports books, and the Seminole Tribe's total payment for all marketing or similar services by qualified pari-mutuel permitholders may not exceed forty percent of the Seminole Tribe's total sports betting Net Win.

Such contracts must expressly state all such wagering is conducted exclusively at one or more of the Seminole Tribe's tribal gaming facilities, even if qualified pari-mutuel permitholders market the Seminole Tribe's sports book by providing dedicated areas within their facilities where patrons may access or use electronic devices to place wagers via the Internet, web applications, or otherwise to the Seminole Tribe's sports book;

The Seminole Tribe may suspend the participation of qualified pari-mutuel permitholder from providing services under the written contract upon a violation by the qualified pari-mutuel permitholder of the written contract or the Seminole Tribe's exclusivity under the 2021 Gaming Compact, provided the Seminole Tribe provides written notice to the qualified pari-mutuel permitholder, and the qualified pari-mutuel permitholder fails to completely halt such violation within thirty days after such notice.

The Seminole Tribe may not use player data obtained from a qualified pari-mutuel permitholder to market gaming offered by the Seminole Tribe under the 2021 Gaming Compact. With respect to wagers made with a mobile or other electronic device, the Seminole Tribe must implement:

- A registration process to validate player identity, including their age;
- An anti-money laundering (AML) process to verify the source of funds, track transactions, prevent anonymous deposits and submit official reports to the Financial Crimes Enforcement Network (FINCEN)⁵⁷ as required; and

⁵⁶ Uses of sources of truth in the structuring of databases is intended to result in each data element being edited in a single place, to avoid duplication or omission. See https://en.wikipedia.org/wiki/Single_source_of_truth (last visited May 11, 2021).

⁵⁷ See the FINCEN website, available at <https://www.fincen.gov/> (last visited May 11, 2021).

- Geo-fencing to prevent wagers by players not physically located in Florida.

With respect to all forms of sports betting, the Seminole Tribe must comply with the rules and regulations adopted by the National Indian Gaming Commission,⁵⁸ including any requirements for video depictions of wagering outcomes. Any data source and the corresponding data to determine the results of all sports bets must be complete, accurate, reliable, timely and available, and appropriate to settle the types of events and wagers for which the data is used.

The State Compliance Agency (SCA) may utilize the dispute resolution provisions set forth in the 2021 Gaming Compact if it believes the Seminole Tribe has failed to comply with the requirements for sports betting, including the requirements relating to contracts with qualified pari-mutuel permitholders.

Revenue Sharing under the 2021 Gaming Compact

The 2021 Gaming Compact provides for revenue share payments to the state based on varying percentage rates that depend on the amount of the Seminole Tribe's Net Win⁵⁹ (revenue share payments), the type of Covered Game, and other specified events, as set forth below:

SUMMARY OF REVENUE SHARE PAYMENTS -2021 Gaming Compact (Revenue Share Payments by the Seminole Tribe to the State)	
Net Win - Slots, Raffles and Drawings; New Games, if Authorized by the State	
\$0-2B:	12%;
\$2-2.5B:	17.5%
\$2.5-3B:	20%
\$3-3.5B:	22.5%
\$3.5B+:	25%
Net Win - Slots, Raffles and Drawings; New Games, if Authorized by the State	
\$0-1B:	15%;
\$1-1.5B:	17.5%
\$1.5-2B:	22.5%
\$2B+:	25%
Net Win – Sports Betting	
13.75%, on Net Win from marketing by Seminole Tribe	
10% on Net Win from marketing by qualified pari-mutuel permitholders	
Guaranteed Minimum Compact Term Payment of \$2.5B (Two billion, five hundred million dollars) (includes all Revenue Share Payments for the first five years of the 2021 Gaming	

⁵⁸ See the NIGC website, available at <https://www.nigc.gov/> (last visited May 11, 2021).

⁵⁹ *Supra* note 55.

Compact)

Guaranteed Minimum Compact Term Payments

If the 2021 Gaming Compact is ratified by the Legislature, submitted to the Secretary, and is approved in July, 2021, the revenue sharing cycle period will be from August 1 to July 31 each year.⁶⁰ The guaranteed minimum payments apply to the first five revenue sharing cycles, and the minimum amount guaranteed to be paid by the Seminole Tribe is at least:

- \$400 million for any revenue sharing cycle during the first five years;
- \$1.5 billion by the end of the third revenue sharing cycle; and
- \$2.5 billion by the end of the fifth revenue sharing cycle.⁶¹

Reduction of Tribal Payments Due to Loss of Exclusivity Granted to the Seminole Tribe

- If, after January 1, 2021, the State Constitution is amended by the Legislature to authorize Class III Gaming or Other Casino-Style Gaming that was not in operation on that date, then the payments to the state will cease when the gaming begins to be played. The payments resume when such gaming stops.
- If, after January 1, 2021, there is an expansion of Class III Gaming or Other Casino-Style Gaming by a court decision or administrative ruling, the Seminole Tribe is required to make the payments into an escrow account, and the Legislature then has 15 months after the Seminole Tribe notifies the state of the gaming expansion, or if the state challenges the claim, the Legislature has 12 months after a favorable ruling for the Seminole Tribe to pass legislation to reverse the decision or ruling.
- If, after January 1, 2021, the State Constitution is amended by constitutional initiative without action by the Legislature to authorize:
 - Sports betting, then the Seminole Tribe's payments to the state are reduced by the Net Win from sports betting;
 - Class III Gaming or Other Casino Style Gaming, excluding sports betting or other form of online or remote gaming, at any location less than 100 miles from a tribal facility, then the Seminole Tribe's payments to the state are reduced by the Net Win (excluding sports betting) from any tribal facility within 100 miles of the new location. If the location is more than 100 miles from any tribal facility, then there is no breach of exclusivity.
- If, after January 1, 2021, sports betting is authorized for any other federally recognized tribe in Florida, then the Seminole Tribe's payments to the state are reduced by 25 percent of the Net Win from sports betting, but in no event may the revenue share payments be less than 10 percent of the Net Win from sports betting.

⁶⁰ See the review of the 2021 Gaming Compact by the Revenue Estimating Conference/Impact Conference at http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2021a/_pdf/Impact0506.pdf (last visited May 11, 2021). The Office of Economic and Demographic Research (EDR) is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. At the request of the legislative committees or other members of an estimating conference, EDR conducts impact assessments of proposed policy changes. Often, EDR's estimates are incorporated in the committee bill analysis or fiscal note. In some cases, committees will request EDR to take a particular proposal to a consensus estimating conference to obtain an impact estimate that is formally agreed to by both houses of the Legislature and by the Governor's Office. *Id.* at <http://edr.state.fl.us/Content/about/functions.cfm> (last visited May 11, 2021).

⁶¹ *Id.*

- If state law is changed to authorize more than 2,000 slot machines at the four licensed pari-mutuel facilities in Miami-Dade County and the four licensed pari-mutuel facilities in Broward County, then the Seminole Tribe's payments to the state are reduced by 50 percent of the Net Win on slot machines from the Tribe's facilities in Broward County. Payments by the Seminole Tribe without such a reduction resume when the 2,000 slot machine limit is restored.
- Except for gaming authorized by constitutional initiative, if the state permits any other person or entity to offer any form of online or remote gaming, then the Seminole Tribe is permitted to accept wagers on the same, specific form of gaming from players physically located within the state using mobile or other electronic devices, with such wagers deemed to take place exclusively where received at the location of the servers or other devices used to conduct such wagering activity at a tribal facility on Indian Lands. If the state revokes its permission to such person or entity to offer any form of online or remote gaming, then the authorization for the Seminole Tribe to accept such wagers is also revoked.

Section 2 amends s. 285.710, F.S., revises local government share distribution amounts that are made in Broward County and Collier County, related to governmental services provided in areas where tribal gaming facilities are located. The bill also provides the local government share derived from the three additional gaming facilities that the Seminole Tribe is authorized to add to its Hollywood Reservation pursuant to the 2021 Gaming Compact will be distributed to Broward County (25 percent), the City of Hollywood (35 percent), the Town of Davie (30 percent), and the City of Dania Beach (10 percent).

Section 3 amends s. 285.712(4), F.S., to address submission of the 2021 Gaming Compact to the United States Secretary of the Interior, and to correct a cross reference.

Sections 4 and 5 amend ss. 551.102 and 551.103, F.S., relating to slot machine gaming licenses and testing of slot machines for compliance with Florida law, respectively, to specify an "independent testing laboratory" is an independent laboratory with demonstrated competence testing gaming machines and equipment, and which is licensed by at least 10 other states and has not had its license suspended or revoked by any other state within the immediately preceding 10 years.

Section 6 amends s. 849.086, F.S., relating to cardrooms, to:

- Require poker games played in a designated player manner in which one player is permitted, but not required, to cover other players' wagers, to comply with the following restrictions:
 - Poker games played in a designated player manner must have been identified in cardroom license applications approved by the division on or before March 15, 2018, or, if a substantially similar poker game, identified in cardroom license applications approved by the division on or before April 1, 2021;
 - If the cardroom is located in Broward County, Collier County, Glades County, Hendry County, Hillsborough County, or Miami-Dade County (i.e., where slot machine gaming is authorized in state and tribal facilities), the cardroom operator is limited to offering no more than 10 tables for the play of poker games in a designated player manner; and
 - If the cardroom is located outside Broward County, Collier County, Glades County, Hendry County, Hillsborough County, or Miami-Dade County (i.e., where slot machine

- gaming is not authorized), the cardroom operator is limited to offering no more than 30 tables for the play of poker games in a designated player manner;
- Provide there may not be more than nine players and a nonplayer dealer at each table;
 - Prohibit a cardroom operator from having any direct economic interest in a poker game played in a designated player manner, except for the rake; and
 - Prohibit a cardroom operator from receiving any portion of the winnings of a poker game played in a designated player manner.

Under the bill, no person licensed to operate a cardroom may operate any game that violates the exclusivity provided in the 2021 Gaming Compact.

Section 7 provides the act takes effect only if 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 April 23, 2021, under the Indian Gaming Regulatory Act of 1988, is approved or deemed approved and not voided by the United States Department of the Interior, and shall take effect on the date that notice of the effective date of the compact is published in the Federal Register.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Licensed pari-mutuel facilities, if eligible to be qualified pari-mutuel permitholders providing marketing and similar services to the Seminole Tribe, will receive revenue for such services.

C. Government Sector Impact:

The fiscal impact of the bill has not been reviewed by the Revenue Estimating Conference, but the revenue share payments due under the 2021 Gaming Compact, (if approved by the Legislature and the Secretary of the Interior as required), will have a positive fiscal impact to state government revenues.

According to the May 6th Impact Conference held by the Revenue Estimating Conference, the General Revenue Fund will benefit from the revenue share payments due under the 2021 Gaming Compact (if approved by the U.S. Secretary of the Interior or by operation of federal law). The first monthly revenue share payment is projected in September 2021 for August receipts, assuming federal approval is received in July 2021. The chart below shows the estimated revenue share payments to the state by year.

Revenue Sharing Payments (in millions)

	Yearly Revenue Sharing Cycle Aug - July	State Fiscal Year July - June (with guaranteed minimums)
Year 1 / FY 2021-22	426.7	355.6
Year 2 / FY 2022-23	455.5	450.7
Year 3 / FY 2023-24	475.3	472.0
Year 4 / FY 2024-25*	499.7	638.1
Year 5** / FY 2025-26	522.0	518.3

* At the end of Year 3, cumulative payments must reach a minimum of \$1.5 billion. The REC estimates an additional payment in FY 2024-25 (end of Year 3 revenue sharing cycle) to reach the minimum.

** At the end of Year 5 (affecting FY 2026-27), an additional payment is projected to reach the \$2.5 billion minimum revenue share requirement for the first five revenue sharing cycles.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 285.710, 285.712, 551.102, 551.103, and 849.086

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.

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



129742

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Book) recommended the following:

Senate Amendment

Delete lines 70 - 76

and insert:

Hollywood shall receive 40 ~~55~~ percent, the Town of Davie shall receive 25 ~~10~~ percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the Seminole Indian Casino-Hollywood.

(c) Broward County shall receive 25 percent, the City of Hollywood shall receive 40 ~~55~~ percent, the Town of Davie shall



129742

11 | receive 25 ~~10~~ percent, and the City of Dania Beach shall receive



927450

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Farmer) recommended the following:

Senate Substitute for Amendment (129742) (with directory amendment)

Delete lines 69 - 85
and insert:

(d) Collier County shall receive 75 ~~100~~ percent and the Immokalee Fire Control District shall receive 25 percent of the local government share derived from the Seminole Indian Casino-Immokalee.

(h) Broward County shall receive 25 percent, the City of



927450

11 Hollywood shall receive 55 percent, the Town of Davie shall
12 receive 10 percent, and the City of Dania Beach shall receive 10
13

14 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

15 And the directory clause is amended as follows:

16 Delete line 59

17 and insert:

18 Section 2. Paragraph (d) of subsection (10)



761054

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 123 - 130

and insert:

6. Fantasy sports contests. The acceptance of entry fees for fantasy sports contests conducted by the Tribe, including the receipt of entry fees paid by players physically located within the state using a mobile or other electronic device, shall be deemed to be exclusively conducted by the Tribe where the servers or other devices used to conduct such contests on



761054

the Tribe's Indian lands are located. A person must be 21 years
of age or older to pay an entry fee for fantasy sports contests.

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

And the title is amended as follows:

Delete line 16

and insert:

providing age requirements for fantasy

By Senator Hutson

7-00002-21A

20212A__

A bill to be entitled

An act relating to the implementation of the 2021 gaming compact between the Seminole Tribe of Florida and the State of Florida; amending s. 285.710, F.S.; revising the definition of the term "compact"; providing for legislative approval and ratification of a gaming compact between the Seminole Tribe of Florida and the state; requiring the Governor to cooperate with the Tribe in seeking approval and ratification of such compact from the United States Secretary of the Interior; specifying that such compact supersedes a certain other gaming compact under certain circumstances; revising local government share distributions; authorizing the Tribe to conduct additional games, contests, and sports betting; providing age requirements for wagering on fantasy sports contests and sports betting; specifying that certain games and gaming activities do not violate the laws of this state; conforming cross-references; amending s. 285.712, F.S.; revising requirements for the Secretary of State relating to a compact; amending s. 551.102, F.S.; defining the term "independent testing laboratory"; amending s. 551.103, F.S.; conforming a provision to changes made by the act; amending s. 849.086, F.S.; providing conditions, requirements, and prohibitions relating to poker games played in a designated player manner; prohibiting a person licensed to operate a cardroom from operating certain games; providing contingent effective dates.

Page 1 of 9

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

7-00002-21A

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

Section 1. Effective upon becoming a law, paragraph (a) of subsection (1) and subsection (3) of section 285.710, Florida Statutes, are amended to read:

285.710 Compact authorization.—

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

(a) "Compact" means the most recent ratified and approved gaming compact between the Seminole Tribe of Florida and the State of Florida, ~~executed on April 7, 2010~~.

(3) (a) The gaming compact between the Seminole Tribe of Florida and the State of Florida, executed by the Governor and the Tribe on April 7, 2010, was ~~is~~ ratified and approved by chapter 2010-29, Laws of Florida.

(b) The gaming compact between the Seminole Tribe of Florida and the State of Florida, executed by the Governor and the Tribe on April 23, 2021, is ratified and approved. The Governor shall cooperate with the Tribe in seeking approval of such compact ratified and approved under this paragraph from the United States Secretary of the Interior. Upon becoming effective, such compact supersedes the gaming compact ratified and approved under paragraph (a). If the gaming compact ratified and approved under this paragraph is not approved by the United States Secretary of the Interior or is invalidated by court action or change in federal law, the gaming compact ratified and approved under paragraph (a) shall remain in effect. The Governor shall cooperate with the Tribe in seeking approval of the compact from the United States Secretary of the Interior.

Page 2 of 9

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

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Section 2. Paragraphs (b), (c), and (d) of subsection (10) and subsection (13) of section 285.710, Florida Statutes, are amended, and paragraph (h) is added to subsection (10) of that section, to read:

285.710 Compact authorization.—

(10) The calculations necessary to determine the local government share distributions shall be made by the state compliance agency based upon the net win per facility as provided by the Tribe. The local government share attributable to each casino shall be distributed as follows:

(b) Broward County shall receive 25 percent, the City of Hollywood shall receive 35 ~~55~~ percent, the Town of Davie shall receive 30 ~~40~~ percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the Seminole Indian Casino-Hollywood.

(c) Broward County shall receive 25 percent, the City of Hollywood shall receive 35 ~~55~~ percent, the Town of Davie shall receive 30 ~~40~~ percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the Seminole Hard Rock Hotel & Casino-Hollywood.

(d) Collier County shall receive 75 ~~400~~ percent and the Immokalee Fire Control District shall receive 25 percent of the local government share derived from the Seminole Indian Casino-Immokalee.

(h) Broward County shall receive 25 percent, the City of Hollywood shall receive 35 percent, the Town of Davie shall receive 30 percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the additional facilities authorized to be added to the Tribe's

7-00002-21A

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Hollywood Reservation under the gaming compact ratified, approved, and described in subsection (3).

(13) (a) For the purpose of satisfying the requirement in 25 U.S.C. s. 2710(d)(1)(B) that the gaming activities authorized under an Indian gaming compact must be permitted in the state for any purpose by any person, organization, or entity, the following class III games or other games specified in this section are hereby authorized to be conducted by the Tribe pursuant to the compact described in subsection (3)(a), if the compact described in subsection (3)(b) is not effective:

1. ~~(a)~~ Slot machines, as defined in s. 551.102(9) ~~or~~ 551.102(8).

2. ~~(b)~~ Banking or banked card games, including baccarat, chemin de fer, and blackjack or 21 at the tribal facilities in Broward County, Collier County, and Hillsborough County.

3. ~~(c)~~ Raffles and drawings.

(b) For the purpose of satisfying the requirement in 25 U.S.C. s. 2710(d)(1)(B) that the gaming activities authorized under an Indian gaming compact must be permitted in the state for any purpose by any person, organization, or entity, the following class III games or other games specified in this section are hereby authorized to be conducted by the Tribe pursuant to the compact described in subsection (3)(b), when such compact has been approved by the United States Secretary of the Interior, has not been invalidated by court action or change in federal law, and is effective:

1. Slot machines, as defined in s. 551.102(9).

2. Banking or banked card games, including baccarat, chemin de fer, and blackjack (21), and card games banked by the house,

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by a bank established by the house, or by a player.

3. Raffles and drawings.

4. Craps, including dice games such as sic-bo and any similar variations thereof.

5. Roulette, including big six and any similar variations thereof.

6. Fantasy sports contests. Wagers on fantasy sports contests conducted by the Tribe, including wagers made by players physically located within the state using a mobile or other electronic device, shall be deemed to be exclusively conducted by the Tribe where the servers or other devices used to conduct such wagering activity on the Tribe's Indian lands are located. A person must be 21 years of age or older to wager on fantasy sports contests.

7. Sports betting. Wagers on sports betting, including wagers made by players physically located within the state using a mobile or other electronic device, shall be deemed to be exclusively conducted by the Tribe where the servers or other devices used to conduct such wagering activity on the Tribe's Indian lands are located. A person must be 21 years of age or older to wager on sports betting.

Games and gaming activities authorized under this subsection and conducted pursuant to a gaming compact ratified and approved under subsection (3) do not violate the laws of this state.

Section 3. Effective upon becoming a law, subsection (4) of section 285.712, Florida Statutes, is amended to read:

285.712 Tribal-state gaming compacts.—

(4) Upon receipt of an act ratifying a tribal-state

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compact, the Secretary of State shall coordinate with the parties to the compact to formally submit forward a copy of the executed compact and the ratifying act to the United States Secretary of the Interior for his or her review and approval, in accordance with 25 U.S.C. s. 2710(d)(8) ~~25 U.S.C. s. 2710(8)(d)~~.

Section 4. Present subsections (5) through (13) of section 551.102, Florida Statutes, are redesignated as subsections (6) through (14), respectively, and a new subsection (5) is added to that section, to read:

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

(5) "Independent testing laboratory" means an independent laboratory:

(a) With demonstrated competence testing gaming machines and equipment;

(b) That is licensed by at least 10 other states; and

(c) That has not had its license suspended or revoked by any other state within the immediately preceding 10 years.

Section 5. Paragraph (c) of subsection (1) of section 551.103, Florida Statutes, is amended to read:

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

(1) The division shall adopt, pursuant to the provisions of ss. 120.536(1) and 120.54, all rules necessary to implement, administer, and regulate slot machine gaming as authorized in this chapter. Such rules must include:

(c) Procedures to scientifically test and technically evaluate slot machines for compliance with this chapter. The division may contract with an independent testing laboratory to conduct any necessary testing under this section. ~~The~~

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~~independent testing laboratory must have a national reputation which is demonstrably competent and qualified to scientifically test and evaluate slot machines for compliance with this chapter and to otherwise perform the functions assigned to it in this chapter.~~ An independent testing laboratory shall not be owned or controlled by a licensee. The use of an independent testing laboratory for any purpose related to the conduct of slot machine gaming by a licensee under this chapter shall be made from a list of one or more laboratories approved by the division.

Section 6. Subsection (10) and paragraph (a) of subsection (12) of section 849.086, Florida Statutes, are amended, and paragraph (h) is added to subsection (7) of that section, to read:

849.086 Cardrooms authorized.—

(7) CONDITIONS FOR OPERATING A CARDROOM.—

(h) Poker games played in a designated player manner in which one player is permitted, but not required, to cover other players' wagers must comply with the following restrictions:

1. Poker games to be played in a designated player manner must have been identified in cardroom license applications approved by the division on or before March 15, 2018, or, if a substantially similar poker game, identified in cardroom license applications approved by the division on or before April 1, 2021.

2. If the cardroom is located in a county where slot machine gaming is authorized under chapter 285 or chapter 551, the cardroom operator is limited to offering no more than 10 tables for the play of poker games in a designated player

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manner.

3. If the cardroom is located in a county where slot machine gaming is not authorized under chapter 285 or chapter 551, the cardroom operator is limited to offering no more than 30 tables for the play of poker games in a designated player manner.

4. There may not be more than nine players and the nonplayer dealer at each table.

(10) FEE FOR PARTICIPATION; PROHIBITIONS RELATING TO ECONOMIC INTEREST AND WINNINGS FOR CERTAIN GAMES.—

(a) The cardroom operator may charge a fee for the right to participate in games conducted at the cardroom. Such fee may be either a flat fee or hourly rate for the use of a seat at a table or a rake subject to the posted maximum amount but may not be based on the amount won by players. The rake-off, if any, must be made in an obvious manner and placed in a designated rake area which is clearly visible to all players. Notice of the amount of the participation fee charged shall be posted in a conspicuous place in the cardroom and at each table at all times.

(b)1. A cardroom operator may not have any direct economic interest in a poker game played in a designated player manner, except for the rake.

2. A cardroom operator may not receive any portion of the winnings of a poker game played in a designated player manner.

(12) PROHIBITED ACTIVITIES.—

(a) No person licensed to operate a cardroom may conduct any banking game or any game not specifically authorized by this section or operate any game that violates the exclusivity

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233 provided in the gaming compact ratified, approved, and described
234 in s. 285.710(3).

235 Section 7. Except as otherwise expressly provided in this
236 act and except for this section, which shall take effect upon
237 this act becoming a law, this act shall take effect only if the
238 Gaming Compact between the Seminole Tribe of Florida and the
239 State of Florida executed by the Governor and the Seminole Tribe
240 of Florida on April 23, 2021, under the Indian Gaming Regulatory
241 Act of 1988, is approved or deemed approved and not voided by
242 the United States Department of the Interior, and shall take
243 effect on the date that notice of the effective date of the
244 compact is published in the Federal Register.

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 Committee on Appropriations

BILL: SB 4A

INTRODUCER: Senator Hutson

SUBJECT: Gaming Enforcement

DATE: May 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer/Imhof	Sadberry	AP	Pre-meeting
2.				
3.				

I. Summary:

SB 4A establishes additional enforcement measures to address violations of gambling laws and the conduct of unauthorized gaming in the state, including the creation of the Florida Gaming Control Commission (commission), and granting additional investigatory and prosecutorial authority to the Office of Statewide Prosecution in the Department of Legal Affairs.

SB 6A, relating to Public Records and Public Meeting Exemptions/Florida Gaming Control Commission, is linked to this bill.

The bill will have an indeterminate fiscal impact on state government, and includes appropriations to implement this act and for administrative support by the Department of Business and Professional Regulation to the commission. *See* Section V, Fiscal Impact Statement.

Except as otherwise expressly provided in the bill, the bill takes effect on the same day that SB 2A (Implementation of the 2021 Gaming Compact), or similar legislation takes effect, if adopted in the same legislative session and becomes a law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷ and
- Cardrooms⁸ at certain pari-mutuel facilities.⁹

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁰

The 1968 State Constitution states that “[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .” are prohibited.¹¹ A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.¹²

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. See s. 550.002(22), F.S.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. See s. 849.086(2)(c), F.S., which 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 charged a fee for participation by the operator of such facility.”

⁹ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited May 11, 2021).

¹⁰ 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).

¹¹ The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

¹² The Department of the Lottery is authorized by s. 15, Art. X, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,¹³ bingo,¹⁴ charitable drawings,¹⁵ game promotions (sweepstakes),¹⁶ and bowling tournaments.¹⁷ The Family Amusement Games Act was enacted in 2015 and authorizes skill-based amusement games and machines at specified locations.¹⁸

Regulation of Pari-mutuel Wagering

The Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) regulates pari-mutuel wagering. 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 eight license suspensions, and \$19,075 in fines assessed for violations of all pari-mutuel statutes and administrative rules in Fiscal Year 2019-2020.¹⁹

Ten permitholders were not issued operating licenses for Fiscal Year 2020-2021: two greyhound permitholders,²⁰ two jai alai permitholders,²¹ one limited thoroughbred permitholder,²² and five quarter horse permitholders.²³

Issuance of Pari-mutuel Permits and Annual Licenses

Section 550.054, F.S., provides that any person meeting the qualification requirements of ch. 550, F.S., may apply to the division for a permit to conduct pari-mutuel wagering. Upon approval, a permit must be issued to the applicant that indicates:

- The name of the permitholder;
- The location of the pari-mutuel facility;
- The type of pari-mutuel activity to be conducted; and
- A statement showing qualifications of the applicant to conduct pari-mutuel performances under ch. 550, F.S.

¹³ See s. 849.085, F.S.

¹⁴ See s. 849.0931, F.S.

¹⁵ See s. 849.0935, F.S.

¹⁶ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁷ See s. 849.141, F.S.

¹⁸ See s. 546.10, F.S.

¹⁹ See the 89th Annual Report for Fiscal Year 2019-2020 issued by the division at: [AnnualReport-2019-2020--89th--20210224.pdf](#) at page 5 (equivalent to page 3 of the printed Annual Report) (last visited May 11, 2021).

²⁰ Jefferson County Kennel Club (Monticello) and North American Racing Association (Key West).

²¹ Gadsden Jai-alai (Chattahoochee) and Tampa Jai Alai.

²² Under s. 550.3345, F.S., during Fiscal Year 2010-2011 only, holders of quarter horse racing 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), which was licensed to operate in 2019-2020, and Ocala Thoroughbred Racing (Marion County), which was not licensed to operate.

²³ ELH Jefferson (Jefferson County), DeBary Real Estate Holdings (Volusia County), North Florida Racing (Jacksonville), Pompano Park Racing (Pompano Beach), and St. Johns Racing (St. Johns County). See http://www.myfloridalicense.com/dbpr/pmw/documents/PermitholdersList_2020-2021.pdf (last visited May 11, 2021).

A permit does not authorize any pari-mutuel performances until approved by a majority of voters in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. An application may not be considered, nor may a permit be issued by the division or be voted upon in any county, for the conduct of:

- Harness horse racing, quarter horse racing, thoroughbred horse racing, or greyhound racing at a location within 100 miles of an existing pari-mutuel facility; or
- Jai alai games within 50 miles of an existing pari-mutuel facility.

Distances are measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.²⁴

After issuance of the permit and a ratification election, the division may issue an annual operating license for wagering at the specified location in a county, indicating the time, place, and number of days during which pari-mutuel operations may be conducted at the specified location.²⁵

Pursuant to s. 550.054(9)(b), F.S., the division may revoke or suspend any permit or license upon the willful violation by the permitholder or licensee of any provision of ch. 550, F.S., or any administrative rule adopted by the division, and may impose a civil penalty against the permitholder or licensee of up to \$1,000 for each offense.

Slot Machine Gaming Locations and Operations

Section 32 of Art. X of the State Constitution, adopted pursuant to a 2004 initiative petition, authorized slot machines in licensed pari-mutuel facilities in Broward and Miami-Dade counties, if approved by county referendum. The voters in Broward and Miami-Dade counties approved slot machine gaming. Slot machine gaming in the state is limited to Broward and Miami-Dade counties, and as authorized by federal law, in the tribal gaming facilities of the Seminole Tribe.

Sections 551.104(3), 551.116, and 551.121, F.S., address slot machine gaming operations, and:

- Restrict the issuance of slot machine licenses to licensed pari-mutuel permitholders, for slot machine gaming only at the facility where pari-mutuel wagering is authorized to be conducted by the permitholder;
- Limit slot machine gaming to 18 hours per day, Monday through Friday, and 24 hours on Saturdays and Sundays; and
- Prohibit the service of complimentary or reduced-cost alcoholic beverages to persons playing a slot machine, among other prohibitions.

²⁴ See s. 550.054(2), F.S.

²⁵ See s. 550.054(9)(a), F.S.

Cardrooms

Section 849.086, F.S., authorizes cardrooms at certain pari-mutuel facilities.²⁶ In Fiscal Year 2021-2022, 27 cardrooms are licensed to operate.²⁷ 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.²⁸ A cardroom may be open 18 hours per day on Monday through Friday, and 24 hours per day on Saturday and Sunday.²⁹

Sections 849.086(5) and (6), F.S., provide that a licensed pari-mutuel permitholder that holds a valid pari-mutuel permit may hold a cardroom license authorizing the operation of a cardroom and the conduct of authorized games at the cardroom. An authorized game is a game or series of games of poker or dominoes.³⁰ Such games must be played in a non-banking manner,³¹ where the participants play against each other, instead of against the house (cardroom). At least four percent of the gross cardroom receipts of greyhound racing permitholders and jai alai permitholders conducting live races or games must supplement greyhound purses, and quarter horse permitholders must have a contract with a horsemen's association governing the payment of purses on live quarter horse races conducted by the permitholder.³²

Gaming Compacts with Seminole Tribe of Florida

In 2010, a gaming compact (2010 Gaming Compact) between the Seminole Tribe of Florida (Seminole Tribe) and the State of Florida (state) was ratified by the Legislature.³³ The 2010 Gaming Compact authorizes the Seminole Tribe to conduct certain Class III gaming for a 20-year period, and to offer banked card games for five years, through July 31, 2015. The 2010 Gaming Compact provides that any expanded gaming (beyond what is specifically acknowledged) allowed in the state relieves the Seminole Tribe of its obligations to make substantial revenue sharing payments.

Pursuant to s. 285.710(13), F.S., 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. The 2010 Gaming Compact provides for revenue sharing in consideration for the exclusive authority granted to the Seminole Tribe to offer banked card games on tribal lands and to offer slot machine gaming outside Miami-Dade and Broward counties.

²⁶ Section 849.086, F.S. Section 849.086(2)(c), F.S., defines “cardroom” to mean a facility where authorized 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.

²⁷ See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited May 11, 2021).

²⁸ *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, 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). 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.”

²⁹ Section 849.086(7)(b), F.S.

³⁰ See s. 849.086(2)(a), F.S.

³¹ *Id.*

³² See s. 849.086(13)(d), F.S.

³³ Ch. 2010-29, Laws of Fla.

Section 285.710(9), F.S., provides that money received by the state from a gaming compact is to be deposited into the General Revenue Fund and provides for the distribution of three percent of the amount paid by the Seminole Tribe to the specified local governments. The percentage of the local share distributed to the specified counties and municipalities is based on the net win per facility in each county and municipality.

The Seminole Tribe notified the state in May 2019, that it was discontinuing revenue share payments in accordance with the 2010 Gaming Compact, based on the results of federal litigation. The 2010 Gaming Compact remains in effect through July 31, 2030.

As designated in s. 285.710, F.S., the division of the DBPR carries out the state's oversight responsibilities under the 2010 Gaming Compact.

Class III Gaming under the Indian Gaming Regulatory Act

Gambling on Indian lands is regulated by the Indian Gaming Regulatory Act of 1988 (IGRA).³⁴ The 2010 Gaming Compact authorizes the Seminole Tribe to conduct specified Class III gaming activities at its seven tribal facilities in Florida.³⁵

Under IGRA, gaming is categorized in 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, other games similar to bingo, and certain non-banked card games if not explicitly prohibited by the laws of the state and if played in conformity with state law; and
- **Class III** gaming includes all forms of gaming that are not Class I or Class II gaming, such as banked card games, such as baccarat, chemin de fer, and blackjack (21), casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, slot machines, and pari-mutuel wagering.³⁶

Amendment 3 to the State Constitution (Voter Control of Gambling)

During the 2018 General Election, the electorate approved a constitutional amendment (Amendment 3, Voter Control of Gambling in Florida). The amendment is codified in the State Constitution as article X, section 30).³⁷

³⁴ See 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.*

³⁵ See paragraph F of Part III of the 2010 Gaming Compact. The Seminole Tribe has three gaming facilities 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). The 2010 Gaming Compact was approved by the U.S. Department of the Interior effective July 6, 2010. See 75 Fed. Reg. 38833-38834 at <https://www.gpo.gov/fdsys/pkg/FR-2010-07-06/pdf/2010-16213.pdf> (last visited May 11, 2021).

³⁶ See 25 U.S.C. s. 2703.

³⁷ See the text of Amendment 3, now codified as art. X, s. 30, at <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes&CFID=44933245&CFTOKEN=f39b1ca7cab71561-BE329BC7-5056-B837-1A6123F335C4849F#A10S30> (last visited May 11, 2021).

Amendment 3 requires a vote proposed by citizen's initiative to amend the State Constitution pursuant to Article XI, section 3 to authorize "casino gambling" in Florida. Casino gambling is defined in section (b) of Amendment 3 as any of the "types of games typically found in casinos" and that are:

- Within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.; and
- In 25 [Code of Federal Regulations] (C.F.R.) s. 502.4 upon the adoption of the amendment and any that are added to such definition of Class III gaming in the future.

Section (b) of Amendment 3 provides that casino gambling includes, but is not limited to, the following:

- Any house banking game, including but not limited to, card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
- Any player-banked game that simulates a house banking game, such as California blackjack;
- Casino games such as roulette, craps, and keno;
- Any slot machines as defined in 15 U.S.C. 1171(a)(1); and
- Any other game not authorized by Article X, section 15 [of the State Constitution, relating to state operated lotteries], whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing.

Section (b) of Amendment 3 also further defines "casino gambling" as including the following:

- Any electronic gambling devices;
- Simulated gambling devices;
- Video lottery devices;
- Internet sweepstakes devices; and
- Any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under [the Indian Gaming Regulatory Act].

Under Amendment 3, the term "casino gambling" does not include pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions. For the purposes of Amendment 3, the terms "gambling" and "gaming" are synonymous.

Additionally, Amendment 3 provides:

Nothing [in Amendment 3] shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities. In addition, nothing [in Amendment 3] shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to [the Indian Gaming Regulatory Act].

By its terms, Amendment 3 became effective on November 6, 2018, is self-executing, and no legislative implementation is required. If any part of Amendment 3 is held invalid for any reason, the remaining portion(s) must be severed from the invalid portion and given “the fullest possible force and effect.”

United States Gaming Regulatory Agencies (Gaming Commissions)

The National Council of Legislators from Gaming States (NCLGS) is an organization of state lawmakers which meets to discuss gaming issues, and includes committees on lotteries, pari-mutuels, casinos, responsible gaming, Indian gaming issues, and telephone/internet wagering.³⁸

Regulatory resources cited by NCLGS include the:

- Association of Racing Commissioners International, Inc. (ARCI), a non-profit corporation founded in the 1930’s to uphold uniform pari-mutuel racing rules and practices, serves as a resource for pari-mutuel rulings, including equine medication issues. The ARCI works to preserve the integrity of horseracing, jai-alai, and dog-racing.³⁹
- North American Gaming Regulators Association (NAGRA), created in 1984, includes as members federal, state, local, tribal, and provincial government gaming regulators.⁴⁰
- National Indian Gaming Commission (NIGC), established under the Indian Gaming Regulatory Act, is an independent federal regulatory agency charged with the regulation of Indian gaming on Indian land, specifically to protect tribes from corrupt influences, including organized crime, to make sure it is tribes that are receiving the benefit of Indian gaming, and to ensure that fair playing practices that protect tribes and players are adhered to. The NIGC maintains a list of gaming tribes on its site, searchable by tribe or state.⁴¹
- International Association of Gaming Regulators (IAGR), which is an organization of international government agencies responsible for the regulation of gaming in their home jurisdictions concerned with sharing information and resources among each other on issues relevant to the regulation of gaming.⁴²

According to NAGRA, there are approximately 75 gaming regulatory agencies in the United States and Canada, including lottery commissions, pari-mutuel commissions, racing commissions, casino control commissions, and gambling control commissions.⁴³ Two of the most well-known gaming control entities are the Nevada Gaming Commission and Gaming Control Board,⁴⁴ and the New Jersey Casino Control Commission.⁴⁵

In Nevada, members of the Board and Commission are appointed by the Governor of Nevada to four-year terms. In addition to other requirements, each member must be a resident of Nevada and no member may hold elective office while serving. Members are also not permitted to

³⁸ See <https://www.nclgs.org/index.php/about-us> (last visited May 11, 2021).

³⁹ See <http://arci.com/> (last visited May 11, 2021).

⁴⁰ See <https://www.nagra.org/default.aspx> (last visited May 11, 2021).

⁴¹ See <https://www.nigc.gov/> (last visited May 11, 2021).

⁴² See <https://www.iagr.org/> (last visited May 11, 2021).

⁴³ See links to the numerous state and province gaming regulatory agencies, commissions, control boards, and lotteries at <https://www.nagra.org/State-and-Province-Gaming-Regulatory-Agencies> (last visited May 11, 2021).

⁴⁴ See <https://gaming.nv.gov/> (last visited May 11, 2021).

⁴⁵ See <https://www.nj.gov/casinos/> (last visited May 11, 2021).

possess any direct pecuniary interest in gaming activities while serving in their capacity as members.⁴⁶

The New Jersey Casino Control Commission (NJ commission) is the independent licensing authority of the state's casinos⁴⁷ and key employees,⁴⁸ comprised of up to three members, appointed by the governor and confirmed by the state senate.⁴⁹ As a quasi-judicial panel, the NJ commission conducts hearings⁵⁰ on contested casino key employee license matters, and appeals⁵¹ from decisions and penalties imposed by the state's division of gaming enforcement. Commissioners serve staggered, five-year terms and may only be removed for cause.⁵² The commission notes:

The success and ongoing viability of the gaming industry remains inextricably linked to the public's confidence that the State of New Jersey will ensure that people in the industry possess good character, honesty and integrity. Stewardship over that public confidence is a principal responsibility of the Commission and its Chairman.

The NJ commission's regulatory efforts through the years have helped create an environment in which New Jersey's casinos can prosper and from which the citizens of New Jersey benefit. With proper regulatory controls, the industry serves as a catalyst to create economic benefits for Atlantic City, the Greater Atlantic City Region, and the entire State of New Jersey.⁵³

III. Effect of Proposed Changes:

Section 1 amends s. 16.56(1)(a), F.S., relating to the Office of Statewide Prosecution in the Department of Legal Affairs (office), to authorize the office to investigate and prosecute, in addition to gambling offenses, any violation of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), referred to the Office of Statewide Prosecution by the Florida Gaming Control Commission (commission).

Section 2 creates s. 16.71, F.S., to establish the commission within the Department Legal Affairs, Office of the Attorney General. The commission is a separate budget entity, and the commissioners serve as the agency head. The commission's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing must conform to state law. The commission is not subject to control, supervision, or direction by the Department of Legal Affairs or the Attorney General in the performance of its duties, including but not limited to personnel, purchasing transactions involving real or personal property, and budget matters.

⁴⁶ See the Board Information Packet Tab, at p. 3, available at <https://gaming.nv.gov/index.aspx?page=31> (last visited May 11, 2021).

⁴⁷ See <https://www.nj.gov/casinos/services/info/index.html> (last visited May 11, 2021).

⁴⁸ See <https://www.nj.gov/casinos/services/licensing/index.html> (last visited May 11, 2021).

⁴⁹ See <https://www.nj.gov/casinos/about/overview/> (last visited May 11, 2021).

⁵⁰ See <https://www.nj.gov/casinos/services/hearings/index.html> (last visited May 11, 2021).

⁵¹ *Id.*

⁵² See <https://www.nj.gov/casinos/about/overview/> (last visited May 11, 2021).

⁵³ *Id.*

The commission must convene at the call of its chair or at the request of a majority of the members of the commission. Meetings may be held via teleconference or other electronic means. Three members of the commission constitute a quorum, and the affirmative vote of the majority of a quorum is required for any action or recommendation by the commission. However, notwithstanding any other provision of law, the affirmative vote of three members is required to adopt a proposed rule, including an amendment to, or repeal of, an existing rule, that meets or exceeds any of the criteria in s. 120.54(3)(b)1., F.S., relating to special matters to be considered in rule adoption, and s. 120.541(2)(a), F.S., relating to the information required in a statement of estimated regulatory costs. The commission may meet in any city or county in Florida.

Commissioners

Appointment and Compensation

The commission consists of five members, one from each appellate district, to be appointed by the Governor by January 1, 2022, subject to Senate confirmation. The Governor must appoint one of the members as the initial chair and one of the members as the initial vice chair; the chair and vice chair must serve a minimum of two years. Thereafter, the commission members elect one of the commissioners to serve as chair and one to serve as vice chair.

Of the five members, at least one member must have at least 10 years of experience in law enforcement and criminal investigations, at least one member must be a certified public accountant licensed in this state with at least 10 years of experience in accounting and auditing, and at least one member must be an attorney admitted and authorized to practice law in this state for the preceding 10 years. After initial appointments to create staggered terms, all members will serve four-year terms, but may not serve more than 12 years. The salary of a member is the same as a commissioner serving on the Public Service Commission (approximately \$136,000 annually). Vacancies must be filled for the unexpired portion of a term.

Removal or Suspension

The Governor has the same power to remove or suspend commissioners as set forth in s. 7, Art. IV of the State Constitution. In addition to such power, the Governor may remove a member who is convicted of or found guilty of or has plead nolo contendere to, regardless of adjudication, in any jurisdiction, a misdemeanor that directly relates to gambling, dishonesty, theft, or fraud. Upon a commissioner's resignation or removal from office, the Governor must appoint a successor who meets the requirements for appointment set forth above, and who will serve the remainder of the unfinished term.

Appointments; Requirements and Prohibitions

A person may not be appointed to the commission until after a level 2 background screening pursuant to ch. 435, F.S., is performed, the results are forwarded to the Governor, and the Governor determines that the person meets all the requirements for appointment. However, a person who is ineligible for appointment under s. 16.713, F.S., (see **Section 5** below) may not be appointed by the Governor.

The Governor may not solicit or request any nominations, recommendations, or communications about potential candidates for appointment to the commission from:

- Any person that holds a permit or license issued under chs. 550, 551, or 849, F.S., an officer, official, or employee of such permitholder or licensee, or an ultimate equitable owner, as defined in s. 550.002(37), F.S., of such permitholder or licensee.
- Any officer, official, employee, contractor, or subcontractor of a tribe that has a valid and active compact with the state or an entity employed, licensed, or contracted by such tribe, or an ultimate equitable owner, as defined in s. 550.002(37), F.S., of such entity.
- Any registered lobbyist for the executive or legislative branch that represents any person or entity identified above.

The commission must appoint an executive director by April 1, 2022, to supervise, direct, coordinate, and administer the activities needed to fulfill the commission's responsibilities. The executive director may not be a commissioner and must reside in and maintain headquarters in Leon County. A person may not be appointed as executive director until after a level 2 background screening pursuant to ch. 435, F.S., is performed, the results are forwarded to the commission, and the commission determines that the person meets all the requirements for appointment as the executive director. The executive director must supervise, direct, coordinate, and administer all activities necessary to fulfill the commission's responsibilities.

Similarly, the executive director's salary is the same as a commissioner serving on the Public Service Commission (approximately \$136,000 annually). The executive director, with the consent of the commission, must employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations.

The chair of the commission must appoint an inspector general to perform the duties of an inspector general under s. 20.055, F.S.

Division of Gaming Enforcement and Investigations

Section 3 creates s. 16.711, F.S., relating to the duties and creation of a Division of Gaming Enforcement (DGE) within the commission. Under the bill, the DGE is a criminal justice agency, as defined in s. 943.045, F.S. The commissioners must appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the division.

The DGE director and all investigators employed by the DGE must meet the requirements for employment and appointment provided by s. 943.13, F.S., and must be certified as law enforcement officers, as defined in s. 943.10(1), F.S. The DGE director and such investigators must be designated law enforcement officers and must have the power to detect, apprehend, and arrest for any alleged violation of ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling), or any rule adopted pursuant thereto, or any law of this state. Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass. In any instance in which there is reason to believe that a violation has occurred, such officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring.

The bill provides that any such officer may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation. Investigators employed by the commission also have access to, and the right to inspect, premises licensed by the commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the commission.

The DGE and its investigators are specifically authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. The term “contraband” has the same meaning as the term “contraband article” in s. 932.701(2)(a)2., F.S. The DGE is specifically authorized to store and test any contraband that is seized in accordance with the Florida Contraband Forfeiture Act and may authorize any of its staff to implement this provision. The authority of any other person authorized by law to seize contraband is not limited by these provisions.

Under the bill, the Department of Law Enforcement must provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the commission’s executive director and agreed to by the executive director of the Department of Law Enforcement. Any other state agency, including the Department of Business and Professional Regulation and the Department of Revenue, must, upon request, provide the commission with any information relevant to any investigation conducted as described above. The commission must reimburse any agency for the actual cost of providing any such assistance.

Commission Authority, Duties, and Responsibilities

Section 4 creates s. 16.712, F.S., to require, effective July 1, 2022, that the commission do all of the following:

- Exercise all of the regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the Federal Indian Gaming Regulatory Act, and any other forms of gambling authorized by the State Constitution or law, excluding state lottery games as authorized by the State Constitution.
- Establish procedures consistent with ch. 120, F.S., the Administrative Procedure Act, to ensure adequate due process in the exercise of the commission’s regulatory and executive functions.
- Ensure that the laws of this state are not interpreted in any manner that expands the activities authorized in ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling).
- Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribe Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit underage persons from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.

- Evaluate, as the state compliance agency or as the commission, information that is reported by sports governing bodies or other parties to the commission related to:
 - Any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events;
 - Any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing; suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and
 - The use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission.
- The commission must provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of non-proprietary information that may warrant further investigation of the above information by such entities to ensure integrity of wagering activities in the state.
- Review any matter within the scope of the jurisdiction of the Division of Pari-mutuel Wagering.
- Review the regulation of licensees, permitholders, or persons regulated by the Division of Pari-mutuel Wagering and the procedures used by the division to implement and enforce the law.
- Review the procedures of the Division of Pari-mutuel Wagering which are used to qualify applicants applying for a license, permit, or registration.
- Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling), and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling) to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.
- Exercise all other powers and perform any other duties prescribed by the Legislature, and adopt rules to implement the above.

The commission may subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the performance of the duties of the commission or to the exercise of its powers.

The commission may submit written recommendations to enhance the enforcement of gaming laws of the state to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

By December 1 of each year, the commission must annually report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must, at a minimum, include all of the following:

- Recent events in the gaming industry, including pending litigation, pending facility license applications, and new and pending rules.
- Commission actions for the implementation and administration of its duties and responsibilities.
- 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 licensee.
- Commission actions as the state compliance agency, and financial information published by the Office of Economic and Demographic Research, relative to gaming activities authorized pursuant to s. 285.710(13), F.S. (authorized gaming activity by the Seminole Tribe of Florida pursuant to the 2021 Gaming Compact).
- A summary of disciplinary actions taken by the commission.
- The receipts and disbursements of the commission.
- A summary of actions taken and investigations conducted by the commission.
- Any additional information and recommendations that the commission considers useful or that the Governor, the President of the Senate, or the Speaker of the House of Representatives requests.

The commission must develop an annual legislative budget request pursuant to ch. 216, F.S. Such request is not subject to change by the Department of Legal Affairs or the Attorney General, but must be submitted by the Department of Legal Affairs to the Governor for transmittal to the Legislature.

The commission is authorized to contract or consult with appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties. The commission must exercise all of its regulatory and executive powers and must adopt, apply, construe, and interpret all laws and administrative rules in a manner consistent with the 2021 Gaming Compact.

The commission must confirm, prior to the issuance of an operating license, that each permitholder has submitted proof with their annual application for a license, in such a form as the commission may require; that the permitholder continues to possess the qualifications prescribed by ch. 550, F.S. (Pari-mutuel Wagering), and that the permit has not been disapproved by voters in an election.

This section is effective July 1, 2022.

Appointment and Employment Restrictions and Requirements

Section 5 creates s. 16.713, F.S., to provide that certain persons are ineligible for appointment to the commission, including a person who:

- Holds any office in a political party.
- Within the previous 10 years has been convicted or found guilty of or has plead nolo contendere to, regardless of adjudication, in any jurisdiction, any felony, or a misdemeanor that directly relates to gambling, dishonesty, theft, or fraud.
- Has been convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a crime listed in s. 775.21(4)(a)1. or s. 776.08, F.S., relating to sexual predator crimes and forcible felonies, respectively.
- Had a permit or license issued under ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), or a gaming license issued by any other jurisdiction denied, suspended, or revoked.

Prohibitions for Commission Employees and Commissioners; Ineligibility

For a period of two years immediately preceding appointment to, or employment with, the commission, and while appointed or employed with the commission, a person may not:

- Hold a permit or license issued under ch. 550, F.S., (Pari-mutuel Wagering), or a license issued under ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling); be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), F.S.,⁵⁴ of such permitholder or licensee;
- Be an officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; be a contractor or subcontractor of such tribe, or an entity employed, licensed, or contracted by such tribe; or be an ultimate equitable owner, as defined in s. 550.002(37), F.S., of such entity;
- Be or have been, a member of the Legislature;
- Be a registered lobbyist for the executive or legislative branch, except while a commissioner when officially representing the commission; or
- Be a bingo game operator or an employee of a bingo game operator;

Persons who fail to meet or violate the above requirements are ineligible for appointment to or employment with the commission, or if, within the two years immediately preceding such appointment or employment, he or she has solicited or accepted employment with; acquired any direct or indirect interest in; has any direct or indirect business association, partnership, or financial relationship with; or is a relative of, any person or entity who is:

- An applicant, licensee, or registrant with the commission or the Division of Pari-mutuel Wagering (division) in the DBPR;
- An officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state;
- A contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or
- An ultimate equitable owner, as defined in s. 550.002(37), F.S., of such entity;

⁵⁴ Section 550.002, F.S., defines the term “ultimate equitable owner” to mean “a natural person who, directly or indirectly, owns or controls five percent or more of an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such person owns or controls such ownership through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.”

The term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

A person who is ineligible for employment with the commission due to being a relative of one of the persons described above may submit a waiver request to the commission for the person to be considered eligible for employment. Waiver requests must be considered on a case-by-case basis, and the commission must approve or deny each request. If the commission approves the request, the person is eligible for employment with the commission. The waiver procedure does not apply to candidates for appointment to the commission.

A person is ineligible for employment with the commission if:

- Convicted or found guilty of, or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a felony within five years of the date of application;
- Convicted or found guilty of, or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a misdemeanor within five years of the date of application which the commission determines bears a close relationship to the duties and responsibilities of the position for which employment is sought; or
- Dismissed from prior employment for gross misconduct or incompetence or intentionally making a false statement concerning a material fact in connection with the application for employment to the commission.

If an employee of the commission is charged with a felony while employed by the commission, the commission must suspend the employee, with or without pay, and terminate employment with the commission upon conviction. If an employee is charged with a misdemeanor while employed, the commission must suspend the employee, with or without pay, and may terminate employment upon conviction if the commission determines that the offense bears a close relationship to the duties and responsibilities of the position held with the commission.

A commissioner or an employee must notify the commission within three calendar days of arrest for any offense. In addition, a commissioner or an employee must provide detailed written notice of the circumstances to the commission if the member or employee is indicted, charged with, convicted of, pleads guilty or nolo contendere to, or forfeits bail for:

- A misdemeanor involving gambling, dishonesty, theft, or fraud;
- A violation of any law in any state, or a law of the United States or any other jurisdiction, involving gambling, dishonesty, theft, or fraud which would constitute a misdemeanor in Florida; or
- A felony under the laws of Florida or any other state, the United States, or any other jurisdiction.

Standards of Conduct and Ex Parte Communications

Section 7 creates s. 16.715, F.S., relating to standards of conduct and ex parte communications. The bill provides commissioners are public officers, and employees are public employees, subject to the Code of Ethics for Public Officers and Employees set forth in part III of ch. 112,

F.S., (Code of Ethics). Commissioners and employees are also governed by standards of conduct and provisions limiting ex parte communications, as provided in the bill, similar to the standards applicable to commissioners serving on the Public Service Commission. Many of the prohibitions involve activities with persons regulated by the commission (regulated entity).

Standards of Conduct

Under the bill, a commissioner or a commission employee:

- May not accept anything from any business entity which, either directly or indirectly, owns or controls any regulated entity, or from any business entity which, either directly or indirectly, is an affiliate or subsidiary of any regulated entity.
- May attend conferences and associated meals and events that are generally available to all conference participants without payment of fees in addition to the conference fee.
- May attend meetings, meals, or events while attending a conference, that are not sponsored, in whole or in part, by any representative of any regulated entity and that are limited to commissioners only, committee members, or speakers, if the commissioner is a member of a committee of the association of regulatory agencies that organized the conference or is a speaker at the conference;
- May attend a conference for which conference participants who are employed by a regulated entity have paid a higher conference registration fee than the commissioner, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee, and that is sponsored, in whole or in part, by a regulated entity.
- May not act in an unprofessional manner at any time during the performance of his or her official duties.
- Must avoid impropriety in all of his or her activities and must act at all times in a manner that promotes public confidence in the integrity and impartiality of the commission.
- May not directly or indirectly, through staff or other means, solicit anything of value from:
 - Any regulated entity;
 - Any business entity that, whether directly or indirectly, is an affiliate or subsidiary of any regulated entity; or
 - Any party appearing in a proceeding considered by the commission in the last two years.
- Must annually complete at least four hours of ethics training that addresses, at a minimum, s. 8, Art. II of the State Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws of this state; this requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subjects are covered.

While employed, and for two years after service or employment with the commission, a commissioner or employee:

- May not accept any form of employment with or engage in any business activity with:
 - Any business entity which, either directly or indirectly, owns or controls any regulated entity;
 - Any regulated entity; or
 - Any business entity which, either directly or indirectly, is an affiliate or subsidiary of any regulated entity.
- May not have any financial interest, other than shares in a mutual fund, in:

- Any regulated entity;
- Any business entity which, either directly or indirectly, owns or controls any regulated entity; or
- Any business entity which, either directly or indirectly, is an affiliate or subsidiary of any regulated entity.
- Must immediately sell any prohibited financial interest; if the commissioner, the employee, or a relative (defined in s. 16.713(2)(b), F.S., created by the bill) living in the same household as a commissioner or an employee acquires such prohibited financial interest during his or her term of office as a result of events or actions beyond the commissioner's, the employee's, or the relative's control.
- May not accept anything from a party in a proceeding currently pending before the commission.
 - If, during the course of an investigation by the Commission on Ethics into an alleged violation, a person is alleged to have given or provided a prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense.
 - If the Commission on Ethics determines that the person gave or provided a prohibited gift, the person may not appear before the gaming control commission or otherwise represent anyone before that commission for a period of two years.
- May not personally represent before the commission another person or entity for compensation, unless employed by another state agency.

Under the bill, a commissioner:

- May not serve as the representative of any political party or on any executive committee or other governing body of a political party; serve as an executive officer or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy; or become a candidate for election to any public office without first resigning from office.
- May not make any public comment, during his or her term of office, regarding the merits of any proceeding under ss. 120.569 and 120.57, F.S., relating to decisions affecting substantial interests and hearings involving disputed issues of material fact, currently pending before the commission.
- May not lobby the Governor or any state agency, members or employees or the Legislature, or any county or municipal government or governmental agency, except to represent the commission in an official capacity.

The above standards of conduct may be more restrictive than the Code of Ethics, but may not be construed to contravene the code's restrictions. In the event of a conflict, the more restrictive provision applies.

The Commission on Ethics must accept and investigate any alleged violations of the above standards of conduct pursuant to the procedures contained in the Code of Ethics as described in ss. 112.322 through 112.3241, F.S. The Commission on Ethics must provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to the Code of Ethics.

A commissioner may request an advisory opinion from the Commission on Ethics, pursuant to s. 112.322(3)(a), F.S., regarding the standards of conduct or the prohibitions set forth in ss. 16.71 and 16.715, F.S., created by the bill.

A commissioner, commission employee, or a relative living in the same household may not place a wager in any facility licensed by the commission or operated by an Indian tribe that has a valid and active compact with the state.

Background Screening Requirements

Section 6 creates s. 16.714, F.S., to require the Department of Law Enforcement, at the request of the DGE, to perform a Level 2 background screening pursuant to ch. 435, F.S., on an employee of the DGE and on any other commission employee that commission deems a level 2 background screening is necessary, including applicants for employment. The commission must reimburse the Department of Law Enforcement for the actual costs of such investigations.

In addition, the Department of Law Enforcement must, at the request of the DGE, perform a Level 1 background screening pursuant to ch. 435, F.S., on any other commission employees, including applicants for employment, that are not subjected to a Level 2 background screening as described above.

The DGE must conduct investigations of members and commission employees, including applicants for contract or employment, as necessary to ensure the security and integrity of gaming operations in this state. The commission may require persons subject to such investigations to provide information, including fingerprints, as needed by the Department of Law Enforcement for processing, or as is otherwise necessary to facilitate access to state and federal criminal history information.

Restrictions After Appointment or Employment

For the two years immediately following the date of resignation or termination from the commission, a commissioner or an employee may not:

- Personally represent another person or entity for compensation before the executive or legislative branch, unless employed by another agency of state government;
- Hold a permit or license issued under ch. 550, F.S., (Pari-mutuel Wagering), a license issued under ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), be an officer, official, or employee of such permitholder or licensee, or be an ultimate equitable owner, as defined in s. 550.002(37), F.S., of such permitholder or licensee.
- Appear before the commission representing any client or industry regulated by the commission.
- Lobby the Governor or any agency of the state, members or employees of the Legislature, or any county or municipal government or governmental agency; or
- Be a bingo game operator or an employee of a bingo game operator.

In addition, for the two years immediately following the date of resignation or termination from the commission, a commissioner may not accept employment by or compensation from:

- A business which, directly or indirectly, owns or controls a person regulated by the commission;
- A person regulated by the commission;
- A business entity which, directly or indirectly, is an affiliate or subsidiary of a person regulated by the commission; or
- A business entity or trade association that has been a party to a commission proceeding within the two years preceding the member's resignation or termination of service on the commission.

Violations are subject to the penalties for violations of standards of conduct for public officers, employees of agencies, and local government attorneys provided in s. 112.317, F.S., and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

Ex Parte Communications

The bill defines "ex parte communications" as any communication that is:

- Not served on all parties to a proceeding, if the communication is written or printed or in electronic form; or
- Made without adequate notice to the parties and without an opportunity for the parties to be present and heard, if it is an oral communication.

A commissioner may not initiate or consider ex parte communications concerning the merits, threat, or offer of reward in any proceeding that is currently pending before the commission. An individual may not discuss ex parte with a commissioner the merits, threat, or offer of reward regarding any issue in a proceeding that is pending before the commission. These prohibitions do not apply to commission staff.

If a commissioner knowingly receives a prohibited ex parte communication relative to a proceeding to which the commissioner is assigned, the commissioner must place on the record of the proceeding copies of:

- All written communications received;
- All written responses to the communications; and
- A memorandum stating the substance of all oral communications received and all oral responses made.

The commissioner must give written notice to all parties to the ex parte communication that such matters have been placed on the record. Any party who desires to respond to an ex parte communication may do so. The response must be received by the commission within 10 days after receiving notice that the ex parte communication has been placed on the record. The commissioner may, if the commissioner deems it necessary to eliminate the effect of an ex parte communication, withdraw from the proceeding, in which case the chair must substitute another commissioner for the proceeding.

Any individual who makes an ex parte communication must submit to the commission a written statement describing the nature of such communication, to include:

- The name of the person making the communication;

- The name of the commissioner or commissioners receiving the communication;
- Copies of all written communications made and all written responses to such communications; and
- A memorandum stating the substance of all oral communications received and all oral responses made.

The commission must place on the record of a proceeding all such communications. Any commissioner who knowingly fails to place on the record any such communications within 15 days of the date of such communication, is subject to removal and may be assessed a civil penalty not to exceed \$5,000.

The Commission on Ethics must receive and investigate sworn complaints of violations of the standards of conduct or prohibitions against ex parte communications, pursuant to the procedures contained in the Code of Ethics as described in ss. 112.322 through 112.3241, F.S.

If the Commission on Ethics finds that there has been a violation of the standards of conduct or prohibitions against ex parte communications by a commissioner, it must provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to the Code of Ethics, and to remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated the standards. The Governor must remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated the standards of conduct or prohibitions against ex parte communications, after a previous finding by the Commission on Ethics that the commissioner willfully and knowingly violated the standards of conduct or the prohibitions against ex parte communications in a separate matter.

If a commissioner fails or refuses to pay the Commission on Ethics any civil penalties for such violations, the Commission on Ethics may bring an action in any circuit court to enforce such penalty.

If, during the course of an investigation by the Commission on Ethics into an alleged violation of the standards of conduct or prohibitions against ex parte communications, allegations are made as to the identity of the person who participated in the ex parte communication, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person participated in the ex parte communication, the person may not appear before the commission or otherwise represent anyone before that commission for a period of two years.

Section 8 amends s. 20.055, F.S., relating to agency inspectors general, to include the chair of the commission as an “agency head,” and the commission as a “state agency” under that section.

Section 9 amends s. 20.165, F.S., effective, July 1, 2022, to remove the Division of Pari-mutuel Wagering as a division within the Department of Business and Professional Regulation.

Section 10 amends s. 285.710, F.S., effective July 1, 2022, to provide that the commission is the state compliance agency designated as the state agency with authority to carry out the state’s

oversight responsibilities under the 2021 Gaming Compact with the Seminole Tribe, rather than the division.

Section 11 provides for a Type Two transfer pursuant to s. 20.06(2), F.S., effective July 1, 2022, of all powers and duties, personnel, administrative rules, and funding of the DBPR, relating to the regulation of pari-mutuel wagering, slot machines, cardrooms, and the state compliance agency's oversight responsibilities for authorized gaming compacts. Those employees transferred from the DBPR to the commission retain and transfer accrued leave balances. Effective July 1, 2022, the Pari-mutuel Wagering Trust Fund under s. 455.116, F.S., is transferred from the DBPR to the commission.

Section 12 amends s. 932.701, F.S., to include in the definition of "contraband article" certain gaming related terms, including equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, and Internet domain name. This section also updates the violations in this section to include violations of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling).

Section 13 directs the Division of Law Revision to prepare a reviser's bill effective July 1, 2022, to conform the Florida Statutes to the Type Two transfer described in Section 11.

Section 14 provides, for Fiscal Year 2021-2022, the sum of:

- \$2,000,000 in nonrecurring funds from the General Revenue Fund is appropriated and 15 positions with associated salary rate of 1,250,000 are authorized to the commission for the purposes of implementing the act; to support five commissioners, an executive director, general counsel, and other agency personnel as needed; and to cover all expenditures of the commission including, but not limited to, salaries and benefits, travel, background investigations, and fingerprinting fees; and
- \$100,000 in nonrecurring funds from the General Revenue Fund is appropriated to the DBPR for administrative support related to the commission during Fiscal Year 2021-2022, including, but not limited to, human resource management, accounting, and budgeting.

Section 15 provides the DBPR, in coordination with the Department of Legal Affairs and the Department of Management Services, must establish a working group to prepare the commission's legislative budget request for Fiscal Year 2022-2023, for submission by the DBPR. The working group must develop estimates for the amount of money needed for administration of the commission, including, but not limited to, costs relating to overall staffing and administrative support; infrastructure and office space; integration of technology systems and data needs and transfers; law enforcement accreditation, staffing, and training; organizational structure; and other matters deemed necessary or appropriate by the working group, to assure the seamless establishment of the commission and orderly transition of the duties and responsibilities under the Type Two transfer described in Section 11.

This section is effective upon becoming a law.

Section 16 provides that if any law amended by the act was also amended by a law enacted during the 2021 Regular Session of the Legislature, such laws must be construed as if they had

been enacted during the same session of the Legislature, and full effect must be given to each if possible.

Section 17 provides that except as otherwise expressly provided in the bill, the bill takes effect on the same date that SB 2A, relating to the Implementation of the 2021 Gaming Compact between the Seminole Tribe of Florida and the State of Florida, or similar legislation takes effect, if adopted in the same legislative session or any extension, and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill establishes the Florida Gaming Control Commission (commission), to be administratively housed within the Department of Legal Affairs, Office of the Attorney General. For Fiscal Year 2021-2022, the sum of \$2,000,000 in nonrecurring funds from the General Revenue Fund is appropriated and 15 positions with associated salary rate of 1,250,000 are authorized to the commission for the purposes of implementing the act. Such funds will support five commissioners, the executive director, general counsel, and other agency personnel as needed. The funds will cover all expenditures of the

commission including, but not limited to, salaries and benefits, travel, background investigations, and fingerprinting fees.

For Fiscal Year 2021-2022, the sum of \$100,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Business and Professional Regulation (DBPR) for administrative support related to the commission during that period, including, but not limited to, human resource management, accounting, and budgeting.

Effective July 1, 2022, the Pari-Mutuel Wagering Trust Fund (trust fund) will transfer as part of the Type Two transfer. Projected revenues of the trust fund are sufficient to support the cost of the commission.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.56, 20.055, 20.165, 285.710, and 932.701.

This bill creates the following sections of the Florida Statutes: 16.71, 16.711, 16.712, 16.713, 16.714, and 16.715.

The bill creates undesignated sections of Florida law.

IX. 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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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

Senate Amendment

Delete line 194
and insert:
January 1, 2022. In making an appointment to the commission, the Governor must seek to ensure that the members of the commission reflect the ethnic and gender diversity of this state. Of the initial five members appointed by the



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gibson) recommended the following:

Senate Amendment

Delete line 194
and insert:
January 1, 2022. The Governor shall consider appointees who
reflect Florida's racial, ethnic, and gender diversity. Of the
initial five members appointed by the



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment

Delete lines 698 - 702
and insert:
giving or providing the prohibited thing, that person must be
given notice and an opportunity to participate in the
investigation and relevant proceedings to present a defense. If
the Commission on Ethics determines that the person gave or
provided a prohibited thing, the person may not appear before
the

By Senator Hutson

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1 A bill to be entitled
 2 An act relating to gaming enforcement; amending s.
 3 16.56, F.S.; expanding the authority of the Office of
 4 Statewide Prosecution within the Department of Legal
 5 Affairs to investigate and prosecute certain crimes
 6 referred by the Florida Gaming Control Commission;
 7 creating s. 16.71, F.S.; creating the Florida Gaming
 8 Control Commission within the Office of the Attorney
 9 General; providing for membership of the commission;
 10 authorizing the Governor to remove or suspend members
 11 of the commission under certain circumstances;
 12 providing requirements and prohibitions relating to
 13 appointments; requiring the commission to appoint an
 14 executive director; providing requirements and duties
 15 for the executive director; requiring the chair of the
 16 commission to appoint an inspector general; creating
 17 s. 16.711, F.S.; creating the Division of Gaming
 18 Enforcement within the commission; specifying that the
 19 division shall be considered a criminal justice
 20 agency; requiring the commissioners to appoint a
 21 director of the division; providing requirements,
 22 powers, and duties of the director and investigators;
 23 authorizing the division and its investigators to
 24 seize and store certain contraband; defining the term
 25 "contraband"; providing construction; requiring the
 26 Department of Law Enforcement to provide certain
 27 assistance at the request of the division; requiring
 28 the commission to reimburse agencies for the actual
 29 cost of providing assistance; creating s. 16.712,

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30 F.S.; providing duties and responsibilities of the
 31 commission; authorizing the commission to take
 32 specified actions; requiring the commission to submit
 33 an annual report to the Governor and the Legislature;
 34 providing construction; creating s. 16.713, F.S.;
 35 specifying that certain persons are ineligible for
 36 appointment to or employment with the commission;
 37 providing prohibitions for commissioners and employees
 38 of the commission; defining the term "relative";
 39 requiring commissioners and employees to provide
 40 notice relating to certain crimes; creating s. 16.714,
 41 F.S.; requiring the Department of Law Enforcement to
 42 perform specified background screenings upon the
 43 request of the division; requiring the commission to
 44 reimburse the department; requiring the division to
 45 conduct certain investigations; creating s. 16.715,
 46 F.S.; providing construction; providing standards of
 47 conduct for commissioners and employees of the
 48 commission; requiring commissioners and employees of
 49 the commission to complete specified annual training;
 50 requiring the Commission on Ethics to accept and
 51 investigate any alleged violations of the standards of
 52 conduct for commissioners and employees; providing
 53 requirements relating to such investigations;
 54 requiring a report to the Governor and the
 55 Legislature; authorizing a commissioner or an employee
 56 of the Florida Gaming Control Commission to request an
 57 advisory opinion from the Commission on Ethics;
 58 prohibiting certain persons from placing wagers in a

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59 facility licensed by the Florida Gaming Control
 60 Commission or by an Indian tribe that has a valid and
 61 active compact with the state; providing prohibitions
 62 for former commissioners and former employees of the
 63 commission; providing civil penalties; defining the
 64 term "ex parte communication"; providing prohibitions
 65 and requirements relating to ex parte communications;
 66 providing civil penalties; amending s. 20.055, F.S.;
 67 revising definitions; amending s. 20.165, F.S.;
 68 conforming a provision to changes made by the act;
 69 amending s. 285.710, F.S.; revising the definition of
 70 the term "state compliance agency"; designating the
 71 commission as the state compliance agency having
 72 authority to carry out certain responsibilities;
 73 transferring to the commission by a type two transfer
 74 all powers, duties, functions, records, offices,
 75 personnel, associated administrative support
 76 positions, property, pending issues, existing
 77 contracts, administrative authority, administrative
 78 rules, and unexpended balances of appropriations,
 79 allocations, and other funds of the Department of
 80 Business and Professional Regulation related to
 81 certain responsibilities, effective on a specified
 82 date; transferring the Pari-mutuel Wagering Trust Fund
 83 to the commission, effective on a specified date;
 84 amending s. 932.701, F.S.; revising the definition of
 85 the term "contraband article"; providing a directive
 86 to the Division of Law Revision; providing an
 87 appropriation; requiring the department to provide

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88 administrative support for the commission during a
 89 specified fiscal year; requiring the department, in
 90 coordination with the Department of Legal Affairs and
 91 the Department of Management Services, to establish a
 92 working group for a specified purpose; providing
 93 requirements for such working group; providing
 94 construction; providing contingent effective dates.
 95
 96 Be It Enacted by the Legislature of the State of Florida:
 97
 98 Section 1. Paragraph (a) of subsection (1) of section
 99 16.56, Florida Statutes, is amended to read:
 100 16.56 Office of Statewide Prosecution.—
 101 (1) There is created in the Department of Legal Affairs an
 102 Office of Statewide Prosecution. The office shall be a separate
 103 "budget entity" as that term is defined in chapter 216. The
 104 office may:
 105 (a) Investigate and prosecute the offenses of:
 106 1. Bribery, burglary, criminal usury, extortion, gambling,
 107 kidnapping, larceny, murder, prostitution, perjury, robbery,
 108 carjacking, home-invasion robbery, and patient brokering;
 109 2. Any crime involving narcotic or other dangerous drugs;
 110 3. Any violation of the Florida RICO (Racketeer Influenced
 111 and Corrupt Organization) Act, including any offense listed in
 112 the definition of racketeering activity in s. 895.02(8)(a),
 113 providing such listed offense is investigated in connection with
 114 a violation of s. 895.03 and is charged in a separate count of
 115 an information or indictment containing a count charging a
 116 violation of s. 895.03, the prosecution of which listed offense

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may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the Florida Anti-Fencing Act;

5. Any violation of the Florida Antitrust Act of 1980, as amended;

6. Any crime involving, or resulting in, fraud or deceit upon any person;

7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135 or any violation of chapter 827 where the crime is facilitated by or connected to the use of the Internet or any device capable of electronic data storage or transmission;

8. Any violation of chapter 815;

9. Any criminal violation of part I of chapter 499;

10. Any violation of the Florida Motor Fuel Tax Relief Act of 2004;

11. Any criminal violation of s. 409.920 or s. 409.9201;

12. Any crime involving voter registration, voting, or candidate or issue petition activities;

13. Any criminal violation of the Florida Money Laundering Act;

14. Any criminal violation of the Florida Securities and Investor Protection Act; ~~or~~

15. Any violation of chapter 787, as well as any and all offenses related to a violation of chapter 787; or

16. Any criminal violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849 referred to the Office of Statewide Prosecution by the

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Florida Gaming Control Commission;

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. Informations or indictments charging such offenses shall contain general allegations stating the judicial circuits and counties in which crimes are alleged to have occurred or the judicial circuits and counties in which crimes affecting such circuits or counties are alleged to have been connected with an organized criminal conspiracy.

Section 2. Section 16.71, Florida Statutes, is created to read:

16.71 Florida Gaming Control Commission; creation; meetings; membership.—

(1) CREATION; MEETINGS.—

(a) There is created within the Department of Legal Affairs, Office of the Attorney General, the Florida Gaming Control Commission, hereinafter referred to as the commission. The commission shall be a separate budget entity and the commissioners shall serve as the agency head. The commission's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing shall be as provided by law.

(b) The commission is not subject to control, supervision, or direction by the Department of Legal Affairs or the Attorney

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General in the performance of its duties, including, but not limited to, personnel, purchasing transactions involving real or personal property, and budgetary matters.

(c) The commission shall convene at the call of its chair or at the request of a majority of the members of the commission. Meetings may be held via teleconference or other electronic means. Three members of the commission constitute a quorum, and the affirmative vote of the majority of a quorum is required for any action or recommendation by the commission. However, notwithstanding any other provision of law, the affirmative vote of three members is required to adopt a proposed rule, including an amendment to or repeal of an existing rule that meets or exceeds any of the criteria in s. 120.54(3)(b)1. or s. 120.541(2)(a). The commission may meet in any city or county of the state.

(2) MEMBERSHIP.—

(a) The commission shall consist of five members appointed by the Governor, and subject to confirmation by the Senate, for terms of 4 years. Members of the commission must be appointed by January 1, 2022. Of the initial five members appointed by the Governor, and immediately upon appointment, the Governor shall appoint one of the members as the initial chair and one of the members as the initial vice chair. The initial chair and initial vice chair shall serve a minimum of 2 years. At the end of the initial chair's and initial vice chair's terms, the commission shall elect one of the members of the commission as chair and one of the members of the commission as vice chair.

1. For the purpose of providing staggered terms, of the initial appointments, two members shall be appointed to 4-year

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terms, two members shall be appointed to 3-year terms, and one member shall be appointed to a 2-year term.

2. Of the five members, at least one member must have at least 10 years of experience in law enforcement and criminal investigations, at least one member must be a certified public accountant licensed in this state with at least 10 years of experience in accounting and auditing, and at least one member must be an attorney admitted and authorized to practice law in this state for at least the preceding 10 years.

3. Of the five members, each appellate district shall have one member appointed from the district to the commission who is a resident of the district at the time of the original appointment.

(b) A commissioner shall serve until a successor is appointed, but commissioners may not serve more than 12 years. Vacancies shall be filled for the unexpired portion of the term. The salary of each commissioner is equal to that paid under state law to a commissioner on the Florida Public Service Commission.

(c) The Governor shall have the same power to remove or suspend commissioners as set forth in s. 7, Art. IV of the State Constitution. In addition to such power, the Governor may remove a member who is convicted of or found guilty of or has pled nolo contendere to, regardless of adjudication, in any jurisdiction, a misdemeanor that directly relates to gambling, dishonesty, theft, or fraud.

(d) Upon the resignation or removal from office of a member of the commission, the Governor shall appoint a successor pursuant to paragraph (a) who, subject to confirmation by the

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Senate, shall serve the remainder of the unfinished term.

(3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.—

(a) A person may not be appointed by the Governor to the commission until a level 2 background screening pursuant to chapter 435 is performed, the results are forwarded to the Governor, and the Governor determines that the person meets all the requirements for appointment under this section. However, a person who is prohibited from being appointed under s. 16.713 may not be appointed by the Governor.

(b) The Governor may not solicit or request any nominations, recommendations, or communications about potential candidates for appointment to the commission from:

1. Any person that holds a permit or license issued under chapter 550, or a license issued under chapter 551 or chapter 849; an officer, official, or employee of such permitholder or licensee; or an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or an ultimate equitable owner, as defined in s. 550.002(37), of such entity;
or

3. Any registered lobbyist for the executive or legislative branch who represents any person or entity identified in subparagraph 1. or subparagraph 2.

(4) EXECUTIVE DIRECTOR.—

(a) To aid the commission in its duties, the commission

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must appoint a person who is not a member of the commission to serve as the executive director of the commission. A person may not be appointed as executive director until a level 2 background screening pursuant to chapter 435 is performed, the results are forwarded to the commission, and the commission determines that the person meets all the requirements for appointment as the executive director. The executive director shall supervise, direct, coordinate, and administer all activities necessary to fulfill the commission's responsibilities. The commission must appoint the executive director by April 1, 2022.

(b) The executive director, with the consent of the commission, shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations.

(c) The executive director shall maintain headquarters in and reside in Leon County.

(d) The salary of the executive director is equal to that paid under state law to a commissioner on the Florida Public Service Commission.

(5) INSPECTOR GENERAL.—The chair of the commission shall appoint an inspector general who shall perform the duties of an inspector general under s. 20.055.

Section 3. Section 16.711, Florida Statutes, is created to read:

16.711 Division of Gaming Enforcement; creation; duties.—

(1) There is created within the Florida Gaming Control Commission a Division of Gaming Enforcement. The Division of Gaming Enforcement shall be considered a criminal justice agency

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as defined in s. 943.045.

(2) The commissioners shall appoint a director of the Division of Gaming Enforcement who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the division.

(3) The director and all investigators employed by the division must meet the requirements for employment and appointment provided by s. 943.13 and must be certified as law enforcement officers as defined in s. 943.10(1). The director and such investigators shall be designated law enforcement officers and shall have the power to detect, apprehend, and arrest for any alleged violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849, or any rule adopted pursuant thereto, or any law of this state. Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass. In any instance in which there is reason to believe that a violation has occurred, such officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring. Any such officer may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation. Investigators employed by the commission shall also have access to, and shall have the right to inspect, premises licensed by the commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and

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records of all persons licensed by the commission.

(4) (a) The division and its investigators are specifically authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. For purposes of this section, the term "contraband" has the same meaning as the term "contraband article" in s. 932.701(2)(a)2.

(b) The division is specifically authorized to store and test any contraband that is seized in accordance with the Florida Contraband Forfeiture Act and may authorize any of its staff to implement this paragraph.

(c) This subsection does not limit the authority of any other person authorized by law to seize contraband.

(5) The Department of Law Enforcement shall provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the executive director of the commission and agreed to by the executive director of the Department of Law Enforcement. Any other state agency, including the Department of Business and Professional Regulation and the Department of Revenue, shall, upon request, provide the commission with any information relevant to any investigation conducted pursuant to this section. The commission shall reimburse any agency for the actual cost of providing any assistance pursuant to this subsection.

Section 4. Effective July 1, 2022, section 16.712, Florida Statutes, is created to read:

16.712 Florida Gaming Control Commission authorizations, duties, and responsibilities.-

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349 (1) The commission shall do all of the following:
 350 (a) Exercise all of the regulatory and executive powers of
 351 the state with respect to gambling, including, without
 352 limitation thereto, pari-mutuel wagering, cardrooms, slot
 353 machine facilities, oversight of gaming compacts executed by the
 354 state pursuant to the Federal Indian Gaming Regulatory Act, and
 355 any other forms of gambling authorized by the State Constitution
 356 or law, excluding games authorized by s. 15, Art. X of the State
 357 Constitution.
 358 (b) Establish procedures consistent with chapter 120 to
 359 ensure adequate due process in the exercise of its regulatory
 360 and executive functions.
 361 (c) Ensure that the laws of this state are not interpreted
 362 in any manner that expands the activities authorized in chapter
 363 24, part II of chapter 285, chapter 546, chapter 550, chapter
 364 551, or chapter 849.
 365 (d) Review the rules and regulations promulgated by the
 366 Seminole Tribal Gaming Commission for the operation of sports
 367 betting and propose to the Seminole Tribal Gaming Commission any
 368 additional consumer protection measures it deems appropriate.
 369 The proposed consumer protection measures may include, but are
 370 not limited to, the types of advertising and marketing conducted
 371 for sports betting, the types of procedures implemented to
 372 prohibit underage persons from engaging in sports betting, and
 373 the types of information, materials, and procedures needed to
 374 assist patrons with compulsive or addictive gambling problems.
 375 (e) Evaluate, as the state compliance agency or as the
 376 commission, information that is reported by sports governing
 377 bodies or other parties to the commission related to any

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378 abnormal betting activity or patterns that may indicate a
 379 concern about the integrity of a sports event or events; any
 380 other conduct with the potential to corrupt a betting outcome of
 381 a sports event for purposes of financial gain, including, but
 382 not limited to, match fixing; suspicious or illegal wagering
 383 activities, including the use of funds derived from illegal
 384 activity, wagers to conceal or launder funds derived from
 385 illegal activity, use of agents to place wagers, or use of false
 386 identification; and the use of data deemed unacceptable by the
 387 commission or the Seminole Tribal Gaming Commission, and provide
 388 reasonable notice to state and local law enforcement, the
 389 Seminole Tribal Gaming Commission, and any appropriate sports
 390 governing body of nonproprietary information that may warrant
 391 further investigation by such entities to ensure the integrity
 392 of wagering activities in the state.
 393 (f) Review any matter within the scope of the jurisdiction
 394 of the Division of Pari-mutuel Wagering.
 395 (g) Review the regulation of licensees, permitholders, or
 396 persons regulated by the Division of Pari-mutuel Wagering and
 397 the procedures used by the division to implement and enforce the
 398 law.
 399 (h) Review the procedures of the Division of Pari-mutuel
 400 Wagering which are used to qualify applicants applying for a
 401 license, permit, or registration.
 402 (i) Receive and review violations reported by a state or
 403 local law enforcement agency, the Department of Law Enforcement,
 404 the Department of Legal Affairs, the Department of Agriculture
 405 and Consumer Services, the Department of Business and
 406 Professional Regulation, the Department of the Lottery, the

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407 Seminole Tribe of Florida, or any person licensed under chapter
 408 24, part II of chapter 285, chapter 550, chapter 551, or chapter
 409 849 and determine whether such violation is appropriate for
 410 referral to the Office of Statewide Prosecution.

411 (j) Refer criminal violations of chapter 24, part II of
 412 chapter 285, chapter 546, chapter 550, chapter 551, or chapter
 413 849 to the appropriate state attorney or to the Office of
 414 Statewide Prosecution, as applicable.

415 (k) Exercise all other powers and perform any other duties
 416 prescribed by the Legislature.

417 (2) (a) The commission may adopt rules to implement this
 418 section.

419 (b) The commission may subpoena witnesses and compel their
 420 attendance and testimony, administer oaths and affirmations,
 421 take evidence, and require by subpoena the production of any
 422 books, papers, records, or other items relevant to the
 423 performance of the duties of the commission or to the exercise
 424 of its powers.

425 (c) The commission may submit written recommendations to
 426 enhance the enforcement of gaming laws of the state to the
 427 Governor, the President of the Senate, and the Speaker of the
 428 House of Representatives.

429 (3) By December 1 of each year, the commission shall make
 430 an annual report to the Governor, the President of the Senate,
 431 and the Speaker of the House of Representatives. The report
 432 must, at a minimum, include all of the following:

433 (a) Recent events in the gaming industry, including pending
 434 litigation, pending facility license applications, and new and
 435 pending rules.

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436 (b) Actions of the commission relative to the
 437 implementation and administration of this section.

438 (c) The state revenues and expenses associated with each
 439 form of authorized gaming. Revenues and expenses associated with
 440 pari-mutuel wagering shall be further delineated by the class of
 441 license.

442 (d) The performance of each pari-mutuel wagering licensee,
 443 cardroom licensee, and slot licensee.

444 (e) Actions of the commission as the state compliance
 445 agency, and financial information published by the Office of
 446 Economic and Demographic Research, relative to gaming activities
 447 authorized pursuant to s. 285.710(13).

448 (f) A summary of disciplinary actions taken by the
 449 commission.

450 (g) The receipts and disbursements of the commission.

451 (h) A summary of actions taken and investigations conducted
 452 by the commission.

453 (i) Any additional information and recommendations that the
 454 commission considers useful or that the Governor, the President
 455 of the Senate, or the Speaker of the House of Representatives
 456 requests.

457 (4) The commission shall annually develop a legislative
 458 budget request pursuant to chapter 216. Such request is not
 459 subject to change by the Department of Legal Affairs or the
 460 Attorney General, but shall be submitted by the Department of
 461 Legal Affairs to the Governor for transmittal to the
 462 Legislature.

463 (5) The commission is authorized to contract or consult
 464 with appropriate agencies of state government for such

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465 professional assistance as may be needed in the discharge of its
466 duties.

467 (6) The commission shall exercise all of its regulatory and
468 executive powers and shall adopt, apply, construe, and interpret
469 all laws and administrative rules in a manner consistent with
470 the gaming compact ratified, approved, and described in s.
471 285.710(3).

472 (7) The commission shall confirm, prior to the issuance of
473 an operating license, that each permitholder has submitted proof
474 with their annual application for a license, in such a form as
475 the commission may require, that the permitholder continues to
476 possess the qualifications prescribed by chapter 550, and that
477 the permit has not been disapproved by voters in an election.

478 Section 5. Section 16.713, Florida Statutes, is created to
479 read:

480 16.713 Florida Gaming Control Commission; appointment and
481 employment restrictions.—

482 (1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.—
483 The following persons are ineligible for appointment to the
484 commission:

485 (a) A person who holds any office in a political party.

486 (b) A person who within the previous 10 years has been
487 convicted of or found guilty of or has pled nolo contendere to,
488 regardless of adjudication, in any jurisdiction, any felony, or
489 a misdemeanor that directly related to gambling, dishonesty,
490 theft, or fraud.

491 (c) A person who has been convicted of or found guilty of
492 or pled nolo contendere to, regardless of adjudication, in any
493 jurisdiction, a crime listed in s. 775.21(4)(a)1. or s. 776.08.

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494 (d) A person who has had a license or permit issued under
495 chapter 550, chapter 551, or chapter 849 or a gaming license
496 issued by any other jurisdiction denied, suspended, or revoked.

497 (2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS
498 INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE
499 COMMISSION.—

500 (a) A person may not, for the 2 years immediately preceding
501 the date of appointment to or employment with the commission and
502 while appointed to or employed with the commission:

503 1. Hold a permit or license issued under chapter 550 or a
504 license issued under chapter 551 or chapter 849; be an officer,
505 official, or employee of such permitholder or licensee; or be an
506 ultimate equitable owner, as defined in s. 550.002(37), of such
507 permitholder or licensee;

508 2. Be an officer, official, employee, or other person with
509 duties or responsibilities relating to a gaming operation owned
510 by an Indian tribe that has a valid and active compact with the
511 state; be a contractor or subcontractor of such tribe or an
512 entity employed, licensed, or contracted by such tribe; or be an
513 ultimate equitable owner, as defined in s. 550.002(37), of such
514 entity;

515 3. Be or have been a member of the Legislature;

516 4. Be a registered lobbyist for the executive or
517 legislative branch, except while a commissioner when officially
518 representing the commission; or

519 5. Be a bingo game operator or an employee of a bingo game
520 operator.

521 (b) A person is ineligible for appointment to or employment
522 with the commission if, within the 2 years immediately preceding

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such appointment or employment, he or she violated paragraph (a) or solicited or accepted employment with, acquired any direct or indirect interest in, or had any direct or indirect business association, partnership, or financial relationship with, or is a relative of:

1. Any person or entity who is an applicant, licensee, or registrant with the Division of Pari-mutuel Wagering or the commission; or

2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; any contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or any ultimate equitable owner, as defined in s. 550.002(37), of such entity.

(c) A person who is ineligible for employment with the commission under paragraph (b) due to being a relative of a person listed under subparagraph (b)1. or subparagraph (b)2. may submit a waiver request to the commission for the person to be considered eligible for employment. The commission shall consider waiver requests on a case-by-case basis and shall approve or deny each request. If the commission approves the request, the person is eligible for employment with the commission. This paragraph does not apply to persons seeking appointment to the commission.

For the purposes of this subsection, the term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-

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law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

(3) PERSONS INELIGIBLE FOR EMPLOYMENT WITH THE COMMISSION.—

(a) A person is ineligible for employment with the commission if he or she has been convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a felony within 5 years before the date of application; convicted of or found guilty of or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a misdemeanor within 5 years before the date of application which the commission determines bears a close relationship to the duties and responsibilities of the position for which employment is sought; or dismissed from prior employment for gross misconduct or incompetence or intentionally making a false statement concerning a material fact in connection with the application for employment to the commission.

(b) If an employee of the commission is charged with a felony while employed by the commission, the commission shall suspend the employee, with or without pay, and terminate employment with the commission upon conviction. If an employee of the commission is charged with a misdemeanor while employed by the commission, the commission shall suspend the employee, with or without pay, and may terminate employment with the commission upon conviction if the commission determines that the offense bears a close relationship to the duties and responsibilities of the position held with the commission.

(4) NOTIFICATION REQUIREMENTS.—

(a) A commissioner or an employee of the commission must

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581 notify the commission within 3 calendar days after arrest for
582 any offense.

583 (b) A commissioner or an employee must immediately provide
584 detailed written notice of the circumstances to the commission
585 if the member or employee is indicted, charged with, convicted
586 of, pleads guilty or nolo contendere to, or forfeits bail for:

587 1. A misdemeanor involving gambling, dishonesty, theft, or
588 fraud;

589 2. A violation of any law in any state, or a law of the
590 United States or any other jurisdiction, involving gambling,
591 dishonesty, theft, or fraud which would constitute a misdemeanor
592 under the laws of this state; or

593 3. A felony under the laws of this or any other state, the
594 United States, or any other jurisdiction.

595 Section 6. Section 16.714, Florida Statutes, is created to
596 read:

597 16.714 Florida Gaming Control Commission background
598 screening requirements; investigations by the Division of Gaming
599 Enforcement.—

600 (1) LEVEL 2 BACKGROUND SCREENINGS.—The Department of Law
601 Enforcement shall, at the request of the Division of Gaming
602 Enforcement, perform a level 2 background screening pursuant to
603 chapter 435 on an employee of the division and on any other
604 employee of the commission for which the commission deems a
605 level 2 background screening necessary, including applicants for
606 employment. The commission shall reimburse the Department of Law
607 Enforcement for the actual costs of such investigations.

608 (2) LEVEL 1 BACKGROUND SCREENINGS.—The Department of Law
609 Enforcement shall, at the request of the division, perform a

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610 level 1 background screening pursuant to chapter 435 on any
611 employee of the commission, including applicants for employment,
612 who is not listed in subsection (1).

613 (3) INVESTIGATIONS.—The division shall conduct
614 investigations of members and employees of the commission,
615 including applicants for contract or employment, as are
616 necessary to ensure the security and integrity of gaming
617 operations in this state. The commission may require persons
618 subject to such investigations to provide such information,
619 including fingerprints, as is needed by the Department of Law
620 Enforcement for processing or as is otherwise necessary to
621 facilitate access to state and federal criminal history
622 information.

623 Section 7. Section 16.715, Florida Statutes, is created to
624 read:

625 16.715 Florida Gaming Control Commission standards of
626 conduct; ex parte communications.—

627 (1) STANDARDS OF CONDUCT.—

628 (a) In addition to the provisions of part III of chapter
629 112, which is applicable to commissioners on and employees with
630 the Florida Gaming Control Commission by virtue of their being
631 public officers and public employees, the conduct of
632 commissioners and employees shall be governed by the standards
633 of conduct provided in this subsection. Nothing shall prohibit
634 the standards of conduct from being more restrictive than part
635 III of chapter 112. Further, this subsection may not be
636 construed to contravene the restrictions of part III of chapter
637 112. In the event of a conflict between this subsection and part
638 III of chapter 112, the more restrictive provision shall apply.

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(b)1. A commissioner or employee of the commission may not accept anything from any business entity that, either directly or indirectly, owns or controls any person regulated by the commission or from any business entity that, either directly or indirectly, is an affiliate or subsidiary of any person regulated by the commission.

2. A commissioner or an employee may attend conferences, along with associated meals and events that are generally available to all conference participants, without payment of any fees in addition to the conference fee. Additionally, while attending a conference, a commissioner or an employee may attend meetings, meals, or events that are not sponsored, in whole or in part, by any representative of any person regulated by the commission and that are limited to commissioners or employees only, committee members, or speakers if the commissioner or employee is a member of a committee of the association of regulatory agencies which organized the conference or is a speaker at the conference. It is not a violation of this subparagraph for a commissioner or an employee to attend a conference for which conference participants who are employed by a person regulated by the commission have paid a higher conference registration fee than the commissioner or employee, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee and that is sponsored, in whole or in part, by a person regulated by the commission.

3. While employed, and for 2 years after service as a commissioner or for 2 years after employment with the commission, a commissioner or an employee may not accept any

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form of employment with or engage in any business activity with any business entity that, either directly or indirectly, owns or controls any person regulated by the commission; any person regulated by the commission; or any business entity that, either directly or indirectly, is an affiliate or subsidiary of any person regulated by the commission.

4. While employed, and for 2 years after service as a commissioner or for 2 years after employment with the commission, a commissioner, an employee, or a relative living in the same household as a commissioner or an employee may not have any financial interest, other than shares in a mutual fund, in any person regulated by the commission; in any business entity that, either directly or indirectly, owns or controls any person regulated by the commission; or in any business entity that, either directly or indirectly, is an affiliate or a subsidiary of any person regulated by the commission. If a commissioner, an employee, or a relative living in the same household as a commissioner or an employee acquires any financial interest prohibited by this subsection during the commissioner's term of office or the employee's employment with the commission as a result of events or actions beyond the commissioner's, the employee's, or the relative's control, he or she shall immediately sell such financial interest. For the purposes of this subsection, the term "relative" has the same meaning as in s. 16.713(2)(b).

5. A commissioner or an employee may not accept anything from a party in a proceeding currently pending before the commission. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this

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697 paragraph, allegations are made as to the identity of the person
 698 giving or providing the prohibited gift, that person must be
 699 given notice and an opportunity to participate in the
 700 investigation and relevant proceedings to present a defense. If
 701 the Commission on Ethics determines that the person gave or
 702 provided a prohibited gift, the person may not appear before the
 703 commission or otherwise represent anyone before the commission
 704 for a period of 2 years.

705 6. A commissioner may not serve as the representative of
 706 any political party or on any executive committee or other
 707 governing body of a political party; serve as an executive
 708 officer or employee of any political party, committee,
 709 organization, or association; receive remuneration for
 710 activities on behalf of any candidate for public office; engage
 711 on behalf of any candidate for public office in the solicitation
 712 of votes or other activities on behalf of such candidacy; or
 713 become a candidate for election to any public office without
 714 first resigning from office.

715 7. A commissioner, during his or her term of office, may
 716 not make any public comment regarding the merits of any
 717 proceeding under ss. 120.569 and 120.57 currently pending before
 718 the commission.

719 8. A commissioner or an employee may not act in an
 720 unprofessional manner at any time during the performance of
 721 official duties.

722 9. A commissioner or an employee must avoid impropriety in
 723 all activities and must act at all times in a manner that
 724 promotes public confidence in the integrity and impartiality of
 725 the commission.

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726 10. A commissioner or an employee may not directly or
 727 indirectly, through staff or other means, solicit anything of
 728 value from any person regulated by the commission, or from any
 729 business entity that, whether directly or indirectly, is an
 730 affiliate or a subsidiary of any person regulated by the
 731 commission, or from any party appearing in a proceeding
 732 considered by the commission in the last 2 years.

733 11. A commissioner may not lobby the Governor or any agency
 734 of the state, members or employees of the Legislature, or any
 735 county or municipal government or governmental agency except to
 736 represent the commission in an official capacity.

737 (c) A commissioner or an employee of the commission must
 738 annually complete at least 4 hours of ethics training that
 739 addresses, at a minimum, s. 8, Art. II of the State
 740 Constitution, the Code of Ethics for Public Officers and
 741 Employees, and the public records and public meetings laws of
 742 this state. This requirement may be satisfied by completion of a
 743 continuing legal education class or other continuing
 744 professional education class, seminar, or presentation, if the
 745 required subjects are covered.

746 (d) The Commission on Ethics shall accept and investigate
 747 any alleged violations of this subsection pursuant to the
 748 procedures contained in ss. 112.322-112.3241. The Commission on
 749 Ethics shall provide the Governor, the President of the Senate,
 750 and the Speaker of the House of Representatives with a report of
 751 its findings and recommendations. The Governor is authorized to
 752 enforce the findings and recommendations of the Commission on
 753 Ethics, pursuant to part III of chapter 112. A commissioner or
 754 an employee of the commission may request an advisory opinion

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from the Commission on Ethics, pursuant to s. 112.322(3)(a),
regarding the standards of conduct or prohibitions set forth in
this section or s. 16.71.

(e) A commissioner, an employee of the commission, or a
relative living in the same household as a commissioner or an
employee may not place a wager in any facility licensed by the
commission or any facility in the state operated by an Indian
tribe that has a valid and active compact with the state.

(2) FORMER COMMISSIONERS AND EMPLOYEES.—

(a) A commissioner, the executive director, and an employee
of the commission may not personally represent another person or
entity for compensation before the executive or legislative
branch for a period of 2 years following the commissioner's or
executive director's end of service or a period of 2 years
following employment unless employed by another agency of state
government.

(b) A commissioner may not, for the 2 years immediately
following the date of resignation or termination from the
commission:

1. Hold a permit or license issued under chapter 550, or a
license issued under chapter 551 or chapter 849; be an officer,
official, or employee of such permitholder or licensee; or be an
ultimate equitable owner, as defined in s. 550.002(37), of such
permitholder or licensee;

2. Accept employment by or compensation from a business
entity that, directly or indirectly, owns or controls a person
regulated by the commission; from a person regulated by the
commission; from a business entity which, directly or
indirectly, is an affiliate or subsidiary of a person regulated

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by the commission; or from a business entity or trade
association that has been a party to a commission proceeding
within the 2 years preceding the member's resignation or
termination of service on the commission; or

3. Be a bingo game operator or an employee of a bingo game
operator.

(c) A person employed by the commission may not, for the 2
years immediately following the date of termination or
resignation from employment with the commission:

1. Hold a permit or license issued under chapter 550, or a
license issued under chapter 551 or chapter 849; be an officer,
official, or employee of such permitholder or licensee; or be an
ultimate equitable owner, as defined in s. 550.002(37), of such
permitholder or licensee; or

2. Be a bingo game operator or an employee of a bingo game
operator.

(d) Any person violating paragraph (b) or paragraph (c)
shall be subject to the penalties for violations of standards of
conduct for public officers, employees of agencies, and local
government attorneys provided in s. 112.317 and a civil penalty
of an amount equal to the compensation that the person receives
for the prohibited conduct.

(3) EX PARTE COMMUNICATIONS.—

(a) As used in this section, the term "ex parte
communication" means any communication that:

1. If it is a written or printed communication or is a
communication in electronic form, is not served on all parties
to a proceeding; or

2. If it is an oral communication, is made without adequate

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notice to the parties and without an opportunity for the parties to be present and heard.

(b) A commissioner may not initiate or consider ex parte communications concerning the merits, threat, or offer of reward in any proceeding that is currently pending before the commission. An individual may not discuss ex parte with a commissioner the merits, threat, or offer of reward regarding any issue in a proceeding that is pending before the commission. This paragraph does not apply to commission staff.

(c) If a commissioner knowingly receives an ex parte communication relative to a proceeding to which the commissioner is assigned, the commissioner must place on the record of the proceeding copies of all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall give written notice to all parties to the communication that such matters have been placed on the record. Any party who desires to respond to an ex parte communication may do so. The response must be received by the commission within 10 days after receiving notice that the ex parte communication has been placed on the record. The commissioner may, if deemed by such commissioner to be necessary to eliminate the effect of an ex parte communication, withdraw from the proceeding, in which case the chair shall substitute another commissioner for the proceeding.

(d) Any individual who makes an ex parte communication shall submit to the commission a written statement describing the nature of such communication, to include the name of the person making the communication, the name of the commissioner or

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commissioners receiving the communication, copies of all written communications made, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made. The commission shall place on the record of a proceeding all such communications.

(e) Any commissioner who knowingly fails to place on the record any such communications in violation of this subsection within 15 days after the date of such communication is subject to removal and may be assessed a civil penalty not to exceed \$5,000.

(f)1. It shall be the duty of the Commission on Ethics to receive and investigate sworn complaints of violations of this subsection pursuant to the procedures contained in ss. 112.322-112.3241.

2. If the Commission on Ethics finds that there has been a violation of this subsection by a commissioner, it shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112, and to remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated this subsection. The Governor shall remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated this subsection after a previous finding by the Commission on Ethics that the commissioner willfully and knowingly violated this subsection in a separate matter.

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871 3. If a commissioner fails or refuses to pay the Commission
 872 on Ethics any civil penalties assessed pursuant to this
 873 subsection, the Commission on Ethics may bring an action in any
 874 circuit court to enforce such penalty.

875 4. If, during the course of an investigation by the
 876 Commission on Ethics into an alleged violation of this
 877 subsection, allegations are made as to the identity of the
 878 person who participated in the ex parte communication, that
 879 person must be given notice and an opportunity to participate in
 880 the investigation and relevant proceedings to present a defense.
 881 If the Commission on Ethics determines that the person
 882 participated in the ex parte communication, the person may not
 883 appear before the commission or otherwise represent anyone
 884 before the commission for a period of 2 years.

885 Section 8. Paragraphs (a) and (d) of subsection (1) of
 886 section 20.055, Florida Statutes, are amended, and subsection
 887 (2) of that section is republished, to read:

888 20.055 Agency inspectors general.—

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

890 (a) "Agency head" means the Governor, a Cabinet officer, or
 891 a secretary or executive director as those terms are defined in
 892 s. 20.03, the chair of the Public Service Commission, the
 893 Director of the Office of Insurance Regulation of the Financial
 894 Services Commission, the Director of the Office of Financial
 895 Regulation of the Financial Services Commission, the board of
 896 directors of the Florida Housing Finance Corporation, the
 897 executive director of the Office of Early Learning, the chair of
 898 the Florida Gaming Control Commission, and the Chief Justice of
 899 the State Supreme Court.

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900 (d) "State agency" means each department created pursuant
 901 to this chapter and the Executive Office of the Governor, the
 902 Department of Military Affairs, the Fish and Wildlife
 903 Conservation Commission, the Office of Insurance Regulation of
 904 the Financial Services Commission, the Office of Financial
 905 Regulation of the Financial Services Commission, the Public
 906 Service Commission, the Board of Governors of the State
 907 University System, the Florida Housing Finance Corporation, the
 908 Office of Early Learning, the Florida Gaming Control Commission,
 909 and the state courts system.

910 (2) An office of inspector general is established in each
 911 state agency to provide a central point for coordination of and
 912 responsibility for activities that promote accountability,
 913 integrity, and efficiency in government. It is the duty and
 914 responsibility of each inspector general, with respect to the
 915 state agency in which the office is established, to:

916 (a) Advise in the development of performance measures,
 917 standards, and procedures for the evaluation of state agency
 918 programs.

919 (b) Assess the reliability and validity of the information
 920 provided by the state agency on performance measures and
 921 standards, and make recommendations for improvement, if
 922 necessary, before submission of such information pursuant to s.
 923 216.1827.

924 (c) Review the actions taken by the state agency to improve
 925 program performance and meet program standards and make
 926 recommendations for improvement, if necessary.

927 (d) Provide direction for, supervise, and coordinate
 928 audits, investigations, and management reviews relating to the

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programs and operations of the state agency, except that when the inspector general does not possess the qualifications specified in subsection (4), the director of auditing shall conduct such audits.

(e) Conduct, supervise, or coordinate other activities carried out or financed by that state agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations.

(f) Keep the agency head or, for state agencies under the jurisdiction of the Governor, the Chief Inspector General informed concerning fraud, abuses, and deficiencies relating to programs and operations administered or financed by the state agency, recommend corrective action concerning fraud, abuses, and deficiencies, and report on the progress made in implementing corrective action.

(g) Ensure effective coordination and cooperation between the Auditor General, federal auditors, and other governmental bodies with a view toward avoiding duplication.

(h) Review, as appropriate, rules relating to the programs and operations of such state agency and make recommendations concerning their impact.

(i) Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.

(j) Comply with the General Principles and Standards for Offices of Inspector General as published and revised by the Association of Inspectors General.

Section 9. Effective July 1, 2022, paragraph (g) of

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subsection (2) of section 20.165, Florida Statutes, is amended to read:

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

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

~~(g) Division of Pari-mutuel Wagering.~~

Section 10. Effective July 1, 2022, paragraph (f) of subsection (1) and subsection (7) of section 285.710, Florida Statutes, are amended to read:

285.710 Compact authorization.—

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

(f) "State compliance agency" means the Florida Gaming Control Commission ~~Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation~~ which is designated as the state agency having the authority to carry out the state's oversight responsibilities under the compact.

(7) The Florida Gaming Control Commission ~~The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation~~ is designated as the state compliance agency having the authority to carry out the state's oversight responsibilities under the compact authorized by this section.

Section 11. (1) Effective July 1, 2022, all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds in the Department of Business and Professional

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987 Regulation related to the oversight responsibilities by the
 988 state compliance agency for authorized gaming compacts under s.
 989 285.710, Florida Statutes, the regulation of pari-mutuel
 990 wagering under chapter 550, Florida Statutes, the regulation of
 991 slot machines and slot machine gaming under chapter 551, Florida
 992 Statutes, and the regulation of cardrooms under s. 849.086,
 993 Florida Statutes, are transferred by a type two transfer, as
 994 defined in s. 20.06(2), Florida Statutes, to the Florida Gaming
 995 Control Commission within the Department of Legal Affairs,
 996 Office of the Attorney General.

997 (2) Notwithstanding chapter 60L-34, Florida Administrative
 998 Code, or any law to the contrary, employees who are transferred
 999 from the Department of Business and Professional Regulation to
 1000 the Florida Gaming Control Commission within the Department of
 1001 Legal Affairs, Office of the Attorney General, to fill positions
 1002 transferred by this act retain and transfer any accrued annual
 1003 leave, sick leave, and regular and special compensatory leave
 1004 balances.

1005 (3) Effective July 1, 2022, the Pari-mutuel Wagering Trust
 1006 Fund under s. 455.116, Florida Statutes, is transferred from the
 1007 Department of Business and Professional Regulation to the
 1008 Florida Gaming Control Commission.

1009 Section 12. Paragraph (a) of subsection (2) of section
 1010 932.701, Florida Statutes, is amended to read:

1011 932.701 Short title; definitions.—

1012 (2) As used in the Florida Contraband Forfeiture Act:

1013 (a) "Contraband article" means:

1014 1. Any controlled substance as defined in chapter 893 or
 1015 any substance, device, paraphernalia, or currency or other means

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1016 of exchange that was used, was attempted to be used, or was
 1017 intended to be used in violation of any provision of chapter
 1018 893, if the totality of the facts presented by the state is
 1019 clearly sufficient to meet the state's burden of establishing
 1020 probable cause to believe that a nexus exists between the
 1021 article seized and the narcotics activity, whether or not the
 1022 use of the contraband article can be traced to a specific
 1023 narcotics transaction.

1024 2. Any equipment, gambling device, apparatus, material of
 1025 gaming, proceeds, substituted proceeds, real or personal
 1026 property, Internet domain name, gambling paraphernalia, lottery
 1027 tickets, money, currency, or other means of exchange which was
 1028 obtained, received, used, ~~was~~ attempted to be used, or intended
 1029 to be used in violation of the gambling laws of the state,
 1030 including any violation of chapter 24, part II of chapter 285,
 1031 chapter 546, chapter 550, chapter 551, or chapter 849.

1032 3. Any equipment, liquid or solid, which was being used, is
 1033 being used, was attempted to be used, or intended to be used in
 1034 violation of the beverage or tobacco laws of the state.

1035 4. Any motor fuel upon which the motor fuel tax has not
 1036 been paid as required by law.

1037 5. Any personal property, including, but not limited to,
 1038 any vessel, aircraft, item, object, tool, substance, device,
 1039 weapon, machine, vehicle of any kind, money, securities, books,
 1040 records, research, negotiable instruments, or currency, which
 1041 was used or was attempted to be used as an instrumentality in
 1042 the commission of, or in aiding or abetting in the commission
 1043 of, any felony, whether or not comprising an element of the
 1044 felony, or which is acquired by proceeds obtained as a result of

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a violation of the Florida Contraband Forfeiture Act.

6. Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which was used, is being used, or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

7. Any personal property, including, but not limited to, equipment, money, securities, books, records, research, negotiable instruments, currency, or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or vehicle of any kind in the possession of or belonging to any person who takes aquaculture products in violation of s. 812.014(2)(c).

8. Any motor vehicle offered for sale in violation of s. 320.28.

9. Any motor vehicle used during the course of committing an offense in violation of s. 322.34(9)(a).

10. Any photograph, film, or other recorded image, including an image recorded on videotape, a compact disc, digital tape, or fixed disk, that is recorded in violation of s. 810.145 and is possessed for the purpose of amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person.

11. Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which is acquired by proceeds obtained as a result of Medicaid fraud under s. 409.920 or s. 409.9201; any personal property, including, but not limited to, equipment, money,

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securities, books, records, research, negotiable instruments, or currency; or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or vehicle of any kind in the possession of or belonging to any person which is acquired by proceeds obtained as a result of Medicaid fraud under s. 409.920 or s. 409.9201.

12. Any personal property, including, but not limited to, any vehicle, item, object, tool, device, weapon, machine, money, security, book, or record, that is used or attempted to be used as an instrumentality in the commission of, or in aiding and abetting in the commission of, a person's third or subsequent violation of s. 509.144, whether or not comprising an element of the offense.

Section 13. The Division of Law Revision shall prepare a reviser's bill effective July 1, 2022, to replace references to the Division of Pari-mutuel Wagering and references to the Department of Business and Professional Regulation relating to gaming with references to the Florida Gaming Control Commission to conform the Florida Statutes to the transfer described in section 11 of this act.

Section 14. (1) For the 2021-2022 fiscal year, the sum of \$2 million in nonrecurring funds from the General Revenue Fund is appropriated and 15 positions with associated salary rate of 1,250,000 are authorized to the Florida Gaming Control Commission for the purposes of implementing this act. These funds shall support five commissioners, an executive director, general counsel, and other agency personnel as needed. The funds shall cover all expenditures of the commission, including, but not limited to, salaries and benefits, travel, background

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1103 investigations, and fingerprinting fees.

1104 (2) For the 2021-2022 fiscal year, the sum of \$100,000 in
 1105 nonrecurring funds from the General Revenue Fund is appropriated
 1106 to the Department of Business and Professional Regulation for
 1107 administrative support related to the Florida Gaming Control
 1108 Commission. The Department of Business and Professional
 1109 Regulation shall provide administrative support to the Florida
 1110 Gaming Control Commission during the 2021-2022 fiscal year,
 1111 including, but not limited to, human resource management,
 1112 accounting, and budgeting.

1113 Section 15. (1) The Department of Business and Professional
 1114 Regulation, in coordination with the Department of Legal Affairs
 1115 and the Department of Management Services, shall establish a
 1116 working group to prepare the Florida Gaming Control Commission's
 1117 legislative budget request for fiscal year 2022-2023 to be
 1118 submitted by the Department of Business and Professional
 1119 Regulation. The working group shall develop estimates for the
 1120 amount of money needed for administration of the commission,
 1121 including, but not limited to, costs relating to overall
 1122 staffing and administrative support; infrastructure and office
 1123 space; integration of technology systems and data needs and
 1124 transfers; law enforcement accreditation, staffing, and
 1125 training; organizational structure; and other matters deemed
 1126 necessary or appropriate by the working group to assure the
 1127 seamless establishment of the commission and orderly transition
 1128 of the duties and responsibilities under the transfer described
 1129 in section 11 of this act.

1130 (2) This section shall take effect upon this act becoming a
 1131 law.

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

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1132 Section 16. If any law amended by this act was also amended
 1133 by a law enacted during the 2021 Regular Session of the
 1134 Legislature, such laws shall be construed as if they had been
 1135 enacted during the same session of the Legislature, and full
 1136 effect shall be given to each if possible.

1137 Section 17. Except as otherwise expressly provided in this
 1138 act and except for this section, which shall take effect upon
 1139 becoming a law, this act shall take effect on the same date that
 1140 SB 2A or similar legislation takes effect, if such legislation
 1141 is adopted in the same legislative session or an extension
 1142 thereof and becomes a law.

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

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 Committee on Appropriations

BILL: SB 6A

INTRODUCER: Senator Hutson

SUBJECT: Public Records and Public Meetings Exemptions/Florida Gaming Control Commission

DATE: May 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer/Imhof	Sadberry	AP	Pre-meeting
2.				
3.				

I. Summary:

SB 6A, which is linked to the passage of SB 4A (Gaming Enforcement), provides that information obtained by the Florida Gaming Control Commission (commission) which is exempt or confidential and exempt from the public records requirements in s. 119.07(1)(a), F.S., and section 24(c) of Article I of the State Constitution, shall retain its exempt or confidential and exempt status. The information may be released by the commission to other governmental entities as needed in the performance of its official duties and responsibilities, but such entities must maintain the exempt or confidential and exempt status of the information.

The bill provides an open meetings exemption for portions of the commission's meetings during which exempt or confidential and exempt information is discussed. The bill provides the process for meetings that are closed to the public. Under the bill, the entire closed session must be recorded, and such recording must be maintained by the commission. Only members of the commission, Department of Legal Affairs or commission staff supporting the commission's function, and other persons whose presence is necessary for the presentation of exempt or confidential and exempt information may be allowed to attend the exempted portions of commission meetings.

Under the bill, recording of, and any minutes and records generated during a closed portion of a commission meeting are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, until such time as the information discussed is no longer exempt or confidential and exempt.

This open meetings exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution.

Section 24(c) of Article I of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill is not expected to impact state or local revenues and expenditures.

The bill will become effective on the same date that SB 4A (Gaming Enforcement) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Public Records

Section 24(a) of Article I of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of section 24(a) of Article I of the State Constitution.¹ The general law must state with specificity the public necessity justifying the exemption² and must be no broader than necessary to accomplish its purpose.³

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt. Furthermore, the Open Government Sunset Review Act⁴ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; and
- Protect trade or business secrets.⁵

The Open Government Sunset Review Act requires the automatic repeal of a newly created public record exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.⁶

¹ FLA. CONST. art. I, s. 24(c).

² This portion of a public record exemption is commonly referred to as a "public necessity statement."

³ FLA. CONST. art. I, s. 24(c).

⁴ Section 119.15, F.S.

⁵ Section 119.15(6)(b), F.S.

⁶ Section 119.15(3), F.S.

Open Meetings Laws

The State Constitution also provides that the public has a right to access governmental meetings.⁷ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.⁸ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.⁹

Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”¹⁰ or the “Sunshine Law,”¹¹ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken, to be open to the public.¹² The board or commission must provide the public reasonable notice of such meetings.¹³ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status, or which operates in a manner that unreasonably restricts the public’s access to the facility.¹⁴ Minutes of a public meeting must be promptly recorded and open to public inspection.¹⁵

Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.¹⁶ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.¹⁷

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of both the Senate and the House of Representatives.¹⁸ The exemption must explicitly lay out the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁹ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.²⁰

⁷ FLA. CONST. art. I, s. 24(b).

⁸ *Id.*

⁹ *Id.* Meetings of the Legislature are governed by section 4(e) of Article III of the State Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

¹⁰ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

¹¹ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

¹² Section 286.011(1)-(2), F.S.

¹³ *Id.*

¹⁴ Section 286.011(6), F.S.

¹⁵ Section 286.011(2), F.S.

¹⁶ Section 286.011(1), F.S.

¹⁷ Section 286.011(3), F.S.

¹⁸ FLA. CONST. art. I, s. 24(c).

¹⁹ *Id.*

²⁰ *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999).

Gaming Control Commission

SB 4A creates s. 16.71, F.S., to establish a Gaming Control Commission (commission), to be administratively housed in the Department of Legal Affairs, Office of the Attorney General. The commission is a separate budget entity and serves as the agency head. The commission is not subject to control, supervision, or direction by the Department of Legal Affairs or the Attorney General in the performance of its duties, including but not limited to personnel, purchasing transactions involving real or personal property, and budget matters.

The commission consists of five members, one from each appellate district, to be appointed by the Governor by January 1, 2022, subject to Senate confirmation.

SB 4A requires the commission to meet at the call of the chair, or at the request of a majority (three members constitute a quorum) of its members. SB 4A also establishes the powers and duties of the commission.

SB 4A authorizes the commission to subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of any books, papers, records, or other items relevant to the commission's duties or powers. The commission may meet in any city or county of the state.

III. Effect of Proposed Changes:

Section 1 creates s. 16.716, F.S., to provide that information obtained by the commission that is exempt or confidential and exempt²¹ from s. 119.07(1), F.S., or s. 24(a) Art I. of the State Constitution shall retain its exempt or confidential and exempt status. The information may be released by the commission to other governmental entities as needed in the performance of its official duties and responsibilities, but such entities must maintain the exempt or confidential and exempt status of the information.

The bill provides portions of commission meetings during which information that is exempt or confidential and exempt is discussed are exempt from s. 286.011, F.S., and s. 24(b), Art I. of the State Constitution.

The bill provides:

- The commission chair must advise the commission at a public meeting that, in connection with the performance of a commission duty, it is necessary that the commission hear or discuss information that is exempt or confidential and exempt.

²¹ There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied* 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. (1985).

- The chair's declaration of necessity for closure and the specific reasons for such necessity must be stated in a document that is a public record that must be filed with the official records of the commission.
- The entire closed session must be recorded. The recording must be maintained by the commission and include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session may be off the record. The commission must maintain a recording of such meeting.

Further, only members of the commission, Department of Legal Affairs or commission staff supporting the commission's function, and other persons whose presence is necessary for the presentation of exempt or confidential and exempt information may be allowed to attend the exempted portions of the commission meetings. The commission must assure that any authorized closure of its meetings is limited, in order to maintain the general policy in Florida in favor of public meetings.

The bill provides the recording of, and any minutes and records generated during a closed portion of a commission meeting are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, until such time as the information discussed is no longer exempt or confidential and exempt.

This open meeting exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2026, unless the Legislature reviews and reenacts the exemption by that date.

Section 2 provides public necessity statement as required by section 24(c) of Article I of the State Constitution. As to information obtained by the commission, the public necessity statement provides in the absence of this exemption, sensitive confidential or exempt information would be disclosed. As to portions of meetings of the commission at which confidential and exempt information is discussed, the public necessity statement providing the release of confidential and exempt information via a public meeting defeats the purpose of a public records exemption, and the harm to the public that would result from the release of such information substantially outweighs any minimal public benefit derived therefrom.

The bill provides the following findings of the Legislature:

- The release of information before an active investigation is completed could jeopardize the ongoing investigation;
- It is a public necessity that the recording of, and any minutes and records generated during that portion of a commission meeting that is closed to the public be made confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, until such time as the information discussed is no longer exempt or confidential and exempt.
- This limited public record exemption ensures that the information discussed during the closed meeting remains protected while also allowing the commission to perform its statutory duties and responsibilities.

Section 3 provides this act takes effect on the same date that SB 4A (Gaming Enforcement) or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Section 24(c) of Article I of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a new public meetings exemption. Thus, the bill requires a two-thirds vote for final passage.

Public Necessity Statement

Section 24(c) of Article I of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public meetings exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Section 24(c) of Article I of the State Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public meetings exemption, which does not appear to be broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The commission may experience increased workload and incur associated costs in complying with the exemptions created by the bill in handling public records requests, redacting confidential and exempt information prior to releasing a record, and closing portions of commission meetings. However, it is anticipated that any associated costs could be handled with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 16.716 of the Florida Statutes.

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.

By Senator Hutson

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1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 creating s. 16.716, F.S.; specifying that any exempt
 4 or confidential and exempt information obtained by the
 5 Florida Gaming Control Commission retains its exempt
 6 or confidential and exempt status; providing an
 7 exemption from public meetings requirements for
 8 portions of meetings of the commission wherein exempt
 9 or confidential and exempt information is discussed,
 10 provided certain requirements are met; providing an
 11 exemption from public records requirements for
 12 recordings, minutes, and records generated during such
 13 exempt portions of meetings; providing for the future
 14 review and repeal of the exemption; providing a
 15 statement of public necessity; providing a contingent
 16 effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Section 16.716, Florida Statutes, is created to
 21 read:
 22 16.716 Florida Gaming Control Commission public records and
 23 public meetings exemptions.—
 24 (1)(a) Any information obtained by the Florida Gaming
 25 Control Commission which is exempt or confidential and exempt
 26 from s. 119.07(1) or s. 24(a), Art. I of the State Constitution
 27 shall retain its exempt or confidential and exempt status. The
 28 information may be released by the commission, upon written
 29 request, to an agency, as defined in s. 119.011, or a

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30 governmental entity in the performance of the commission's
 31 official duties and responsibilities. An agency or a
 32 governmental entity receiving such information from the
 33 commission shall maintain the exempt or confidential and exempt
 34 status of the information.
 35 (b)1. Any portion of a meeting of the commission during
 36 which information that is exempt or confidential and exempt is
 37 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
 38 State Constitution.
 39 a. The chair of the commission shall advise the commission
 40 at a public meeting that, in connection with the performance of
 41 a commission duty, it is necessary that the commission hear or
 42 discuss information that is exempt or confidential and exempt.
 43 b. The chair's declaration of necessity for closure and the
 44 specific reasons for such necessity shall be stated in writing
 45 in a record that shall be a public record and shall be filed
 46 with the official records of the commission.
 47 c. The entire closed session shall be recorded. The
 48 recording shall include the times of commencement and
 49 termination of the closed session, all discussion and
 50 proceedings, and the names of all persons present. No portion of
 51 the session may be off the record. Such recording shall be
 52 maintained by the commission.
 53 2. Only members of the commission, Department of Legal
 54 Affairs staff, or commission staff supporting the commission's
 55 function and other persons whose presence is necessary for the
 56 presentation of exempt or confidential and exempt information
 57 shall be allowed to attend the exempted portions of the
 58 commission meetings. The commission shall ensure that any

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closure of its meetings as authorized by this paragraph is limited so that the general policy of this state in favor of public meetings is maintained.

3. A recording of, and any minutes and records generated during, that portion of a commission meeting which is closed to the public pursuant to this paragraph are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the information is no longer exempt or confidential and exempt.

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that any information obtained by the Florida Gaming Control Commission which is exempt or confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, maintains its status as exempt or confidential and exempt. In the absence of this public records exemption, sensitive confidential or exempt information, including criminal intelligence information and criminal investigative information, would be disclosed, thus eliminating the protected status of the information obtained by the commission. If the commission is unable to maintain the exempt or confidential and exempt status of the information received, the commission would be unable to effectively and efficiently perform its duties and responsibilities. In addition, the Legislature finds that it is a public necessity that any portion of a meeting of the Florida Gaming Control Commission wherein

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exempt or confidential and exempt information is discussed be made exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution. The release of exempt or confidential and exempt information via a public meeting defeats the purpose of the public records exemption. If such information were part of an active investigation, the release of such information before its completion could jeopardize the ongoing investigation. Furthermore, the Legislature finds that it is a public necessity that the recording of, and any minutes and records generated during, that portion of a commission meeting that is closed to the public be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, until such time as the information is no longer exempt or confidential and exempt. This limited public records exemption ensures that the information discussed during the closed meeting remains protected while also allowing the commission to perform its statutory duties and responsibilities.

Section 3. This act shall take effect on the same date that SB 4A or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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 Committee on Appropriations

BILL: SB 8A

INTRODUCER: Senator Hutson

SUBJECT: Gaming

DATE: May 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer/Imhof	Sadberry	AP	Pre-meeting
2.				
3.				

I. Summary:

SB 8A updates Florida law for authorized gaming in the state, including live racing and games, slot machine gaming, and the operation of cardrooms.

The bill updates provisions in Florida law that are inconsistent with the prohibition of racing of greyhounds in Section 32 of Article X of the State Constitution, titled “Prohibition on Racing of and Wagering on Greyhounds or other Dogs.”

The bill revises requirements for greyhound permitholders, jai alai permitholders, and harness horse permitholders to conduct live racing or games, by amending ch. 550, F.S. (Pari-Mutuel Wagering), ch. 551, F.S. (Slot Machines), and ch. 849, F.S. (Gambling). The bill also includes technical drafting changes, conforming changes, and eliminates obsolete language related to requirements for live racing or games.

Under the bill, a permitholder or licensee may not conduct live greyhound racing or dogracing for wagering, and the Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) is authorized to deny, suspend, or revoke any permit or license under ch. 550, Florida Statutes, and impose a civil penalty of up to \$5,000 for such conduct.

The bill provides a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021. Under the bill, a permit for the conduct of pari-mutuel wagering and associated cardroom or slot machine licenses may only be held by a permitholder, other than a limited thoroughbred permitholder, who held an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021. Permits held on January 1, 2021 are deemed valid, but new

permits for pari-mutuel wagering may not be approved or issued by the division after January 1, 2021.

The bill retains racing requirements for thoroughbred permitholders, limited thoroughbred permitholders, and limited intertrack wagering license permitholders.

The bill provides that slot machine gaming areas must be located at the address specified in the licensed permitholder's slot machine license issued for Fiscal Year 2020-2021.

Cardroom licenses may not be issued to any permitholder, other than a limited thoroughbred permitholder, if the permitholder did not hold an operating license for Fiscal Year 2020-2021. In addition, the bill provides that in order to renew a cardroom license, a thoroughbred permitholders must conduct the minimum number of live racing performances required under current law (known as the "90 percent rule").

The bill may have an indeterminate negative fiscal impact to state government revenues. *See* Section V, Fiscal Impact Statement.

Except as otherwise expressly provided in the bill, the bill takes effect on the same date that SB 2A (Implementation of the 2021 Gaming Compact) or similar legislation is adopted in the same legislative session and becomes a law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷
- Cardrooms⁸ at certain pari-mutuel facilities;⁹

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ "Pari-mutuel" is defined in Florida law as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. *See* s. 849.086(2)(c), F.S., which 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 charged a fee for participation by the operator of such facility."

⁹ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. *See* <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited Apr. 7, 2021).

- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;¹⁰
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S., the Family Amusement Games Act;¹¹ and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
 - Penny-ante games;¹²
 - Bingo;¹³
 - Charitable drawings;¹⁴
 - Game promotions (sweepstakes);¹⁵ and
 - Bowling tournaments.¹⁶

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁷

The 1968 State Constitution states that “[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .” are prohibited.¹⁸ A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.¹⁹

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,²⁰ bingo,²¹ charitable drawings,²² game promotions (sweepstakes),²³ and bowling tournaments.²⁴ The Family Amusement Games Act was enacted in 2015 and authorizes skill-based amusement games and machines at specified locations.²⁵

¹⁰ Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹¹ See s. 546.10, F.S.

¹² See s. 849.085, F.S.

¹³ See s. 849.0931, F.S.

¹⁴ See s. 849.0935, F.S.

¹⁵ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁶ See s. 849.141, F.S.

¹⁷ 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).

¹⁸ The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

¹⁹ The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

²⁰ See s. 849.085, F.S.

²¹ See s. 849.0931, F.S.

²² See s. 849.0935, F.S.

²³ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

²⁴ See s. 849.141, F.S.

²⁵ See s. 546.10, F.S.

Regulation of Pari-mutuel Wagering

The Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) regulates pari-mutuel wagering. 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 eight license suspensions, and \$19,075 in fines assessed for violations of all pari-mutuel statutes and administrative rules in Fiscal Year 2019-2020.²⁶

Ten permitholders were not issued operating licenses for Fiscal Year 2020-2021: two greyhound permitholders,²⁷ two jai alai permitholders,²⁸ one limited thoroughbred permitholder,²⁹ and five quarter horse permitholders.³⁰

Issuance of Pari-mutuel Permits and Annual Licenses

Section 550.054, F.S., provides that any person meeting the qualification requirements of ch. 550, F.S., may apply to the division for a permit to conduct pari-mutuel wagering. Upon approval, a permit must be issued to the applicant that indicates:

- The name of the permitholder;
- The location of the pari-mutuel facility;
- The type of pari-mutuel activity to be conducted; and
- A statement showing qualifications of the applicant to conduct pari-mutuel performances under ch. 550, F.S.

A permit does not authorize any pari-mutuel performances until approved by a majority of voters in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. An application may not be considered, nor may a permit be issued by the division or be voted upon in any county, for the conduct of:

- Harness horse racing, quarter horse racing, thoroughbred horse racing, or greyhound racing at a location within 100 miles of an existing pari-mutuel facility; or
- Jai alai games within 50 miles of an existing pari-mutuel facility.

²⁶ See the 89th Annual Report for Fiscal Year 2019-2020 issued by the division at:

<http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2019-2020--89th--20210224.pdf> at page 5 (equivalent to page 3 of the printed Annual Report) (last visited May 11, 2021).

²⁷ Jefferson County Kennel Club (Monticello) and North American Racing Association (Key West).

²⁸ Gadsden Jai-alai (Chattahoochee) and Tampa Jai Alai.

²⁹ Under s. 550.3345, F.S., during Fiscal Year 2010-2011 only, holders of quarter horse racing 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), which is currently licensed to operate in Fiscal Year 2021-2022, and Ocala Thoroughbred Racing (Marion County), which has never been licensed to operate, and therefore is not yet subject to annual application requirements for thoroughbred permitholders set forth in s. 550.5251, F.S.

³⁰ ELH Jefferson (Jefferson County), DeBary Real Estate Holdings (Volusia County), North Florida Racing (Jacksonville), Pompano Park Racing (Pompano Beach), and St. Johns Racing (St. Johns County). See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2020-2021/> (last visited May 11, 2021).

Distances are measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.³¹

After issuance of the permit and a ratification election, the division may issue an annual operating license for wagering at the specified location in a county, indicating the time, place, and number of days during which pari-mutuel operations may be conducted at the specified location.³² Section 550.5251, F.S., specifies the requirements for annual operating licenses to be issued to thoroughbred permitholders by March 15 of each year, including the number and dates of all performances to be conducted for the racing season commencing the following July 1.

Pursuant to s. 550.054(9)(b), F.S., the division may revoke or suspend any permit or license upon the willful violation by the permitholder or licensee of any provision of ch. 550, F.S., or any administrative rule adopted by the division, and may impose a civil penalty against the permitholder or licensee up to \$1,000 for each offense.

Section 550.054(14), F.S., authorizes conversion of jai alai permits to greyhound permits, under limited conditions.

Section 550.0745, F.S., authorizes, under certain circumstances, the conversion of a pari-mutuel permit to a summer jai alai permit, for the conduct of jai alai games only during the summer season. From May 1 to November 30 of each year, provisions of law prohibiting the location and operation of jai alai frontons within a specified distance from the location of another jai alai fronton or other permitholder, which prohibit the division from granting any permit at a location within a certain designated area, are inapplicable to summer jai alai permits issued pursuant to s. 550.0745, F.S.

The issuance of limited thoroughbred racing permits (through conversion from a quarter horse permit) is authorized in s. 550.3345, F.S. A limited thoroughbred racing permit authorizes the conduct of live thoroughbred horseracing, with net revenues dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under ch. 550, F.S., promotion of the thoroughbred horse breeding industry, and the care of retired thoroughbred horses in Florida.

Limited Intertrack Wagering

Section 550.6308, F.S., relating to the conduct of limited intertrack wagering in support of thoroughbred breeding in Florida, requires:

- A minimum of 15 days of thoroughbred horse sales;
- The conduct of at least one day of nonwagering thoroughbred racing with a \$250,000 purse per year for two consecutive years;
- Intertrack wagering to be conducted:
 - For up to 21 days in connection with sales;
 - Between November 1 and May 8;

³¹ See s. 550.054(2), F.S.

³² See s. 550.054(9)(a), F.S.

- Only with the consent of other permitholders that run live racing in the county, between May 9 and October 31; and
- During the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet conducted after May 8 and before November 1.
- The conduct of intertrack wagering by the limited intertrack license permitholder only on thoroughbred racing, unless the consent of all thoroughbred, jai alai, and greyhound racing permitholders in the same county is obtained; and
- The payment of purses by limited intertrack license permitholder of 2.5 percent for its intertrack wagering on greyhound races or jai alai games.

Slot Machine Gaming Locations and Operations

Section 32 of Art. X of the State Constitution, adopted pursuant to a 2004 initiative petition, authorized slot machines in licensed pari-mutuel facilities in Broward and Miami-Dade counties, if approved by county referendum. The voters in Broward and Miami-Dade counties approved slot machine gaming. Slot machine gaming in the state is limited to Broward and Miami-Dade counties, and as authorized by federal law, in the tribal gaming facilities of the Seminole Tribe.

Sections 551.102, 551.103, 551.104, 551.114, 551.116, and 551.121, F.S., address slot machine gaming operations, and:

- Restricts the issuance of slot machine licenses to licensed pari-mutuel permitholders, for slot machine gaming only at the facility where pari-mutuel wagering is authorized to be conducted by the permitholder;
- Requires the licensee to be in compliance with chs. 551 and 550, F.S.;
- Requires the conduct of a full schedule of live racing or games as defined in s. 550.002(11), F.S.;
- Requires testing of slot machines by an independent testing laboratory with a national reputation which is “demonstrably competent and qualified” to test and evaluate slot machines for compliance with ch. 551, F.S.;
- Regulates slot machine gaming areas, days and hours of operation; currently the slot machine gaming areas are open 18 hours daily Monday through Friday, and 24 hours daily on weekends and paid state holidays.
- Regulates the serving of alcoholic beverages to players in certain areas; complimentary or reduced-cost alcoholic beverages may not be served in slot machine gaming areas; and
- Provides other requirements regarding ownership, law enforcement access, computer systems, security, records, and audits.

Cardrooms

Section 849.086, F.S., authorizes cardrooms at certain pari-mutuel facilities.³³ In Fiscal Year 2021-2022, 27 cardrooms are licensed to operate.³⁴ A license to offer pari-mutuel wagering, slot

³³ Section 849.086, F.S. Section 849.086(2)(c), F.S., defines “cardroom” to mean a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility.

³⁴ See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited May 11, 2021).

machine gaming, or a cardroom at a pari-mutuel facility is a privilege granted by the state.³⁵ A cardroom may be open 18 hours per day on Monday through Friday, and 24 hours per day on Saturday and Sunday.³⁶ An initial cardroom license may be issued to a pari-mutuel permitholder only after its facilities are in place and it has conducted its first day of live racing. In order to renew a cardroom license, the licensee must have requested, as part of its annual pari-mutuel license application, to conduct at least 90 percent of the total performances it had conducted in the prior fiscal year.

Section 849.086(5) and (6), F.S., provide that a licensed pari-mutuel permitholder that holds a valid pari-mutuel permit may hold a cardroom license authorizing the operation of a cardroom and the conduct of authorized games at the cardroom. An authorized game is a game or series of games of poker or dominoes.³⁷ Such games must be played in a non-banking manner,³⁸ where the participants play against each other, instead of against the house (cardroom). At least four percent of the gross cardroom receipts of greyhound racing permitholders and jai alai permitholders conducting live races or games must supplement greyhound purses and jai alai prize money. Thoroughbred and harness horse racing permitholders must use at least 50 percent of the monthly net proceeds from the cardroom for purses and awards, with 47 percent to supplement purses and three percent to supplement breeders' awards. Quarter horse permitholders must have a contract with a horsemen's association governing the payment of purses on live quarter horse races conducted by the permitholder.³⁹

Prohibition on Racing of and Wagering on Greyhounds or other Dogs

Amendment 13 was adopted in 2018 with 69.06 percent support of the electorate. The amendment, titled "Prohibition on Racing of and Wagering on Greyhounds or other Dogs, is codified in s. 32, Art. X of the State Constitution.⁴⁰ The amendment banned all racing of and wagering on live dog racing in Florida after December 31, 2020, and allowed greyhound permitholders to stop racing after December 31, 2018, without affecting other pari-mutuel activities as authorized by law. The Legislature is directed to specify civil or criminal penalties for violations.

III. Effect of Proposed Changes:

Section 1 amends s. 550.002, F.S., to revise live racing requirements affected by the adoption of s. 32, Art. X of the State Constitution (popularly known as Amendment 13). The constitutional amendment prohibits, after December 31, 2020, the conduct of live racing of greyhounds in Florida by gaming or pari-mutuel permitholders, and wagering by any person on the outcome of

³⁵ *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, 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). 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."

³⁶ Section 849.086(7)(b), F.S.

³⁷ See s. 849.086(2)(a), F.S.

³⁸ *Id.*

³⁹ See s. 849.086(13)(d), F.S.

⁴⁰ See <http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes#A10S32> (last visited May 11, 2021).

such racing in the state. Technical drafting changes, conforming changes, and elimination of obsolete language are also included.

Section 2 of the bill is a technical revision amending s. 550.0115, F.S., relating to operating licenses, to clarify references to annual operating licenses.

Section 3 amends s. 550.01215, F.S., relating to operating license applications filed annually with the division of the DBPR, for the conduct of pari-mutuel wagering, including intertrack and simulcast wagering. The application of each permitholder must indicate whether the permitholder intends to accept wagers on intertrack and simulcast events.

The requirement for pari-mutuel permitholders to conduct live racing or games is revised by the bill to provide:

- A greyhound permitholder may not conduct live racing, as such racing is prohibited in Florida after December 31, 2020.
- A jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder may elect not to conduct live racing or games.
- A thoroughbred permitholder must conduct live racing.

A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games:

- Retains its permit;
- Is a pari-mutuel facility as defined in s. 550.002(23), F.S.;
- Is eligible, but not required, to be a guest track, and if the permitholder is a harness horse racing permitholder, is eligible to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305, F.S.; and
- Remains eligible for a cardroom license.

For a greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games, but has been issued a slot machine license, the facility where such permit is located:

- Remains an eligible facility as defined in s. 551.102(4), F.S.;
- Continues to be eligible for a slot machine license pursuant to s. 551.104(3), F.S.; and
- Is exempt from ss. 551.104(4)(c) and (10) and 551.114(2), F.S.

Under the bill, a permitholder or licensee may not conduct live greyhound racing or dogracing for wagering, and the division is authorized to deny, suspend, or revoke any permit or license under ch. 550, F.S., and impose a civil penalty of up to \$5,000 for such conduct.

The bill provides a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering in Fiscal Year 2020-2021. This provision does not apply to limited thoroughbred permitholders issued permits pursuant to s. 550.3345, F.S.

Under the bill, the division may approve changes in racing dates after a license has been issued if there is no objection from any permitholder conducting live racing or games within 50 miles.

The bill further provides that for Fiscal Year 2021-2022 only, the division may approve changes to a permitholder's operating dates if the request is received before October 1, 2021.

The bill repeals an obsolete provision relating to greyhound racing permits.

Section 4 of the bill is a technical revision amending s. 550.0235, F.S., to substitute the term "a permitholder licensed to conduct pari-mutuel wagering," and delete the obsolete term "a permittee conducting a racing meet."

Section 5 amends s. 550.0351, F.S., to delete the authorization for a "dogracing permitholder" to hold charity or scholarship racing days. In addition, the authorization for "hound dog derby" racing events at greyhound permitholder facilities is deleted.

Section 6 amends s. 550.0425, F.S., relating to the attendance of minors to pari-mutuel events, to delete an exception granting access to kennel compound areas for the minor children of greyhound trainers, kennel operators, or other licensees employed in the kennel, when supervised by a parent or legal guardian.

Section 7 amends s. 550.054, F.S., to require the division to revoke the permit of any permitholder, other than a limited thoroughbred permitholder issued a permit pursuant to s. 550.3345, F.S., who did not hold an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021. A revoked permit is void and may not be reissued.

Under the bill, a permit for the conduct of pari-mutuel wagering and associated cardroom or slot machine licenses may only be held by permitholders who held an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021. All permits issued under ch. 550, F.S., and held by permitholders on January 1, 2021, are deemed valid for the sole and exclusive purpose of satisfying all conditions for the valid issuance of the permits. The bill provides new permits for the conduct of pari-mutuel wagering may not be approved or issued by the division after January 1, 2021, and a permit may not be converted to another class of permit.

Section 8 amends s. 550.0745, F.S., relating to summer jai alai permits, to remove this method of converting permits, but authorizes permitholders with such permits to operate a jai alai fronton year-round, rather than solely between May 1 and November 30 each year.

Section 9 amends s. 550.09511(4), F.S., to delete a requirement for payment of daily license fees and tax on admissions and bets, if fewer than 100 live jai alai games are conducted in a calendar year.

Section 10 amends s. 550.09512, F.S., to amend a provision relating to taxes payable by harness horse permitholders who conduct live racing.

Section 11 is a technical revision amending s. 550.105, F.S., related to occupational licenses, to delete references to kennels, kennel helpers, and greyhound racing.

Section 12 is a technical revision amending s. 550.1155, F.S., related to stewards and judges, to delete references to dog tracks and dogtrack judges.

Section 13 is a technical revision amending s. 550.1647, F.S., related to unclaimed pari-mutuel tickets, to delete references to greyhound racing.

Section 14 repeals s. 550.1648, F.S., related to obsolete provisions concerning greyhound adoption booths at pari-mutuel facilities and associated charity racing days.

Section 15 is a technical revision amending s. 550.175, F.S., related to a county's revocation of a permit, to substitute the term "pari-mutuel wagering" for "racing."

Section 16 is a technical revision amending s. 550.1815, F.S., relating to a prohibition against holding a pari-mutuel permit, to substitute the term "greyhound permit" for "dogracing permit."

Section 17 amends s. 550.24055, F.S., relating to the prohibited use of controlled substances and alcohol by occupational licensees officiating at or participating in a race or game, to delete a reference to dogtracks.

Section 18 amends s. 550.2415, F.S., relating to testing of racing animals for medications and other substances, to delete provisions relating to greyhounds and to training and euthanizing greyhounds.

Section 19 amends s. 550.334(8), F.S., to remove a live racing requirement for quarter horse permitholders to conduct intertrack wagering.

Section 20 amends s. 550.3345, F.S., relating to limited thoroughbred permits, to provide that net revenues derived from any licenses issued under ch. 849, F.S., must be dedicated to the enhancement of purses and breeders', stallion, and special racing awards, the promotion of the thoroughbred horse breeding industry, and the care in Florida of thoroughbred horses retired from racing. The bill also provides that such permitholders are not treated as a thoroughbred permitholder for purposes of s. 550.6308, F.S., relating to limited intertrack wagering licenses.

Section 21 amends s. 550.3551, F.S., relating to broadcasting of racing and jai alai information, to conform references to permitholders and to delete a limitation on the number of broadcasts that may be received from outside the state by certain greyhound permitholders. This section amends current law providing that all permitholders conduct at least eight live races or games on a race day, and meet certain minimum live racing or games requirements, to limit application of those requirements to permitholders who conduct live races or games. This section deletes the requirement that a permitholder obtain authorization from the division for special racing events, and deletes the associated approval process and limits on such authorization.

Section 22 amends s. 550.3615, F.S., relating to bookmaking on the grounds of a permitholder, to refer to tracks and frontons as pari-mutuel facilities.

Section 23 creates s. 550.3616, F.S., to prohibit the racing of greyhounds or other dogs in connection with any wager for money or other consideration, by persons authorized to conduct gaming or pari-mutuel operations in Florida. A first-time violator commits a misdemeanor of the first degree, punishable by a term of imprisonment not to exceed one year and a fine not to exceed \$1,000. Repeat violators commit a third degree felony, punishable by a term of imprisonment not to exceed five years and a fine not to exceed \$5,000. This provision is effective October 1, 2021.

Section 24 amends s. 550.475, F.S., relating to the leasing of pari-mutuel facilities by permitholders, to conform references to permitholders and to ensure a lessee may conduct intertrack wagering.

Section 25 amends s. 550.5251, F.S., relating to thoroughbred racing, to remove a prohibition against racing after 7 p.m.

Section 26 amends s. 550.615, F.S., relating to intertrack wagering, to conform references to pari-mutuel facilities and the impact of live racing or games requirements on greyhound permitholders, harness horse, and quarter horse permitholders that may elect not to conduct live racing or games. The bill provides thoroughbred permitholders that have conducted a full schedule of live racing may conduct intertrack wagering, and amends s. 550.615(2), F.S., to provide that a permitholder that has met the live racing or games requirement applicable to that permitholder under s. 550.01215(1)(b), F.S., if any, for Fiscal Year 2020-2021, is qualified to receive broadcasts of any class of pari-mutuel races or games and to accept wagers on such races or games. This section provides any greyhound permitholder licensed under ch. 550, F.S., to conduct pari-mutuel wagering is qualified to, at any time, receive broadcasts and accept wagers on any class of pari-mutuel race or game.

Section 27 is a technical revision amending s. 550.6305, F.S., relating to intertrack wagering, to delete certain pari-mutuel pool accounting requirements for greyhound permitholders.

Section 28 amends s. 550.6308, F.S., relating to limited intertrack wagering, by:

- Reducing the required number of days of sales to eight days from fifteen days.
- Removing the requirement to conduct at least one day of nonwagering thoroughbred racing with a \$250,000 purse per year for two consecutive years.
- Removing the following restrictions and requirements for intertrack wagering to be conducted:
 - For up to 21 days in connection with sales;
 - Between November 1 and May 8;
 - Only with the consent of other permitholders that run live racing in the county, between May 9 and October 31; and
 - During the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet conducted after May 8 and before November 1.
- Removing the restriction that intertrack wagering must be conducted by the limited intertrack license permitholder only on thoroughbred racing, unless the consent of all thoroughbred, jai alai, and greyhound racing permitholders in the same county is obtained; and

- Removing the purse pool requirement imposed on the limited intertrack license permitholder of 2.5 percent for its intertrack wagering on greyhound races or jai alai games, and other pro-rata allocations regarding intertrack wagering to thoroughbred permitholders.

Section 29 amends s. 551.104(4)(c), F.S., relating to the requirement that a permitholder conduct a full schedule of live racing or games as a condition for eligibility to obtain a license to conduct slot machine gaming. The live racing or games requirement for such eligibility is applicable only to thoroughbred permitholders, as under the bill, greyhound permitholders may not conduct live racing, jai alai permitholders may elect not to conduct live games, and harness horse and quarter horse permitholders may elect not to conduct live racing.

Section 30 amends s. 551.114, F.S., relating to slot machine gaming areas, respecting the locations at which designated slot machine gaming areas may be located. The undefined term “live gaming facility” in current law is no longer applicable to greyhound permitholders prohibited from conducting live racing after December 31, 2020. This section provides that slot machine gaming areas must be located at the address location specified in the licensed permitholder’s slot machine license issued for Fiscal Year 2020-2021. Provisions relating to the types of buildings and the connection of such buildings to the live gaming facility are deleted as obsolete.

Section 31 amends s. 551.116, F.S., to allow slot machine gaming areas to be open 24 hours daily.

Section 32 amends s. 551.121, F.S., to delete a prohibition against serving complimentary or reduced cost alcoholic beverages to persons playing slot machines at a licensed slot machine gaming facility.

Section 33 amends s. 565.02, F.S., relating to the licensing of caterers, to confirm that catering licenses may be obtained for all licensed pari-mutuel facilities, whether or not they are conducting live racing or games.

Section 34 amends s. 849.086, F.S., relating to cardrooms, to:

- Revise provisions in current law that are no longer applicable to greyhound permitholders prohibited from conducting live racing after December 31, 2020;
- Revise provisions relating to required contributions to purse pools, and required horsemen’s agreements, to clarify that such contributions and agreements are required only if a permitholder conducts live races or games;
- Provide that a cardroom license may not be issued to any permitholder, other than a limited thoroughbred permitholder issued a permit pursuant to s. 550.3345, F.S., that did not hold an operating license for the conduct of pari-mutuel wagering permit for Fiscal Year 2020-2021;
- Provide that in order for an initial cardroom license to be issued to a thoroughbred permitholder issued a permit pursuant to s. 550.3345, F.S., the permitholder must have requested, as part of its pari-mutuel annual license application, to conduct at least of full schedule of live racing;
- Provide that for renewal of a cardroom license by a thoroughbred permitholder, the permitholder must have requested, as part of its pari-mutuel annual license application, to

conduct the minimum number of live racing performances required under current law (known as the “90 percent rule”);

- Eliminate the live racing requirement for a harness permitholder, which may elect not to conduct live racing; and
- Allow cardrooms to operate 24 hours daily.

Section 35 amends 849.14, F.S., to conform the penalty for unlawful betting to penalties for similar illegal acts in ch. 550, F.S., (Pari-Mutuel Wagering) and ch. 849, F.S., (Gambling). The penalty level is increased to a third degree felony (punishable by a term of imprisonment not to exceed five years, and a fine not to exceed \$5,000); under current law, the penalty level is a second degree misdemeanor (punishable by a term of imprisonment not to exceed 60 days, and a fine not to exceed \$500). This provision is effective October 1, 2021.

Section 36 creates s. 849.142, F.S., to provide the gambling restrictions, penalties, and prohibitions in ss. 849.01, 849.08, 849.09, 849.11, 849.14, and 849.25, F.S., do not apply to participating in or conducting the following activities:

- Tribal gaming activities, if authorized by law and conducted pursuant to a ratified gaming compact;
- Amusement games conducted pursuant to ch. 546, F.S. (Amusement Facilities);
- Pari-mutuel wagering conducted pursuant to ch. 550, F.S. (Pari-mutuel Wagering);
- Slot machine gaming conducted pursuant to ch. 551 (Slot Machines);
- Games conducted pursuant to s. 849.086, F.S. (at authorized cardrooms);
- Bingo games and instant bingo conducted pursuant to s. 849.089, F.S. (at licensed pari-mutuel facilities); and
- Bingo conducted pursuant to s. 849.0931, F.S. (charitable bingo).

Section 37 creates s. 849.251, F.S., relating to penalties for wagering on or racing greyhounds or other dogs. Persons who wager, aid, abet, or connive to race or wager on greyhounds or other dogs, or bet any amount on the outcome of a live dog race in Florida, commit a third degree felony punishable by a term of imprisonment not to exceed five years, and a fine not to exceed \$5,000. This provision is effective October 1, 2021.

Section 38 re-enacts s. 380.0651, F.S., relating to developments of regional impact, for the purpose of incorporating the definitions in s. 550.002, F.S., amended by the bill. A pari-mutuel facility continues to be subject to certain statewide guidelines and standards for developments of regional impact, as set forth in s. 380.06, F.S.

Section 39 re-enacts s. 402.82, F.S., relating to the electronic benefits transfer program, for the purpose of incorporating the definitions in s. 550.002, F.S., amended by the bill. The use of electronic benefits transfer cards continues to be prohibited at pari-mutuel facilities.

Section 40 re-enacts s. 480.0475, F.S., relating to certain overnight hours that massage establishments are prohibited from operating, for the purpose of incorporating the definitions in s. 550.002, F.S., amended by the bill. Massage establishments at pari-mutuel facilities continue to be exempt from the prohibition, and may operate between the hours of midnight and 5 a.m.

Section 41 of the bill provides for severability of the provisions in the act; if the act or its application to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application.

Section 42 provides, except as otherwise expressly provided in the bill, the bill takes effect on the same date that SB 2A (Implementation of the 2021 Gaming Compact) or similar legislation is adopted in the same legislative session and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons associated with jai alai, harness horse, and quarter horse racing will be affected by the election by permitholders to conduct or not conduct live racing or games.

C. Government Sector Impact:

The bill has an indeterminate fiscal impact to state government revenues. The bill authorizes jai alai, harness horse, and quarter horse racing permitholders to elect whether or not to conduct live racing or games while retaining intertrack and simulcast wagering, cardrooms, and where relevant, slot machine facilities. Provisions of the bill, contingent upon the election of certain authorized permitholders to conduct or not conduct live

racing or games, may reduce daily license fees and taxes on wagering payable by these affected permitholders. The Revenue Estimating Conference has not reviewed the fiscal impact of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 550.002, 550.0115, 550.01215, 550.0235, 550.0351, 550.0425, 550.054, 550.0745, 550.09511, 550.09512, 550.105, 550.1155, 550.1647, 550.175, 550.1815, 550.24055, 550.2415, 550.334, 550.3345, 550.3551, 550.3615, 550.475, 550.5251, 550.615, 550.6305, 550.6308, 551.104, 551.114, 551.116, 551.121, 565.02, 849.086, and 849.14.

This bill creates the following sections of the Florida Statutes: 550.3616, 849.142, and 849.251.

This bill repeals section 550.1648 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 380.0651, 402.82, and 480.0475.

This bill creates an undesignated section of the Florida law.

IX. 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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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment

Delete lines 459 - 465

and insert:

pari-mutuel wagering for fiscal year 2020-2021 or who holds a permit issued pursuant to s. 550.3345;

(b) All permits issued under this chapter held by permitholders on January 1, 2021, are deemed valid for the sole and exclusive purpose of satisfying all conditions for the valid issuance of the permits, if such permitholder held an operating



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11 license for the conduct of pari-mutuel wagering for fiscal year
12 2020-2021 or if such permitholder held a permit issued pursuant
13 to s. 550.3345;

By Senator Hutson

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1 A bill to be entitled
 2 An act relating to gaming; amending s. 550.002, F.S.;
 3 revising and providing definitions; amending s.
 4 550.0115, F.S.; conforming provisions to changes made
 5 by the act; amending s. 550.01215, F.S.; revising the
 6 application requirements for an operating license to
 7 conduct pari-mutuel wagering for a pari-mutuel
 8 facility; prohibiting greyhound permitholders from
 9 conducting live racing; authorizing jai alai
 10 permitholders, harness horse racing permitholders, and
 11 quarter horse racing permitholders to elect not to
 12 conduct live racing or games; requiring thoroughbred
 13 permitholders to conduct live racing; specifying that
 14 certain permitholders that do not conduct live racing
 15 or games retain their permit and remain pari-mutuel
 16 facilities; specifying that, if such permitholder has
 17 been issued a slot machine license, the permitholder's
 18 facility remains an eligible facility, continues to be
 19 eligible for a slot machine license, is exempt from
 20 certain provisions of ch. 551, F.S., is eligible to be
 21 a guest track, and, if the permitholder is a harness
 22 horse racing permitholder, is eligible to be a host
 23 track for intertrack wagering and simulcasting and
 24 remains eligible for a cardroom license; prohibiting a
 25 permitholder or licensee from conducting live
 26 greyhound racing or dogracing in connection with any
 27 wager for money or any other thing of value in the
 28 state; providing administrative and civil penalties;
 29 providing requirements for the funds generated from

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30 such penalties; prohibiting operating licenses from
 31 being issued to a pari-mutuel permitholder unless a
 32 specified requirement is met; authorizing the Division
 33 of Pari-mutuel Wagering to approve a change in racing
 34 dates for certain permitholders if the request for a
 35 change is received before a specified date and under
 36 certain circumstances for a specified fiscal year;
 37 deleting a provision authorizing the conversion of
 38 certain permits to a jai alai permit under certain
 39 circumstances; conforming provisions to changes made
 40 by the act; amending s. 550.0235, F.S.; conforming
 41 provisions to changes made by the act; amending s.
 42 550.0351, F.S.; deleting a provision relating to hound
 43 dog derbies and mutt derbies; conforming provisions to
 44 changes made by the act; amending s. 550.0425, F.S.;
 45 deleting a provision authorizing certain minors to be
 46 granted access to kennel compound areas under certain
 47 circumstances; amending s. 550.054, F.S.; requiring
 48 the division to revoke the permit of certain
 49 permitholders; specifying such revoked permit is void
 50 and may not be reissued; revising requirements to hold
 51 a permit for the operation of a pari-mutuel facility
 52 and an associated cardroom or slot machine facility;
 53 specifying certain permits held on a specified date
 54 are deemed valid for specified purposes; prohibiting
 55 new permits for the conduct of pari-mutuel wagering
 56 from being issued after a specified date; prohibiting
 57 a permit to conduct pari-mutuel wagering from being
 58 converted to another class of permit; conforming

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59 provisions to changes made by the act; amending s.
 60 550.0745, F.S.; authorizing summer jai alai
 61 permitholders to conduct pari-mutuel wagering
 62 throughout the year; deleting provisions relating to
 63 the conversion of a pari-mutuel permit to a summer jai
 64 alai permit; amending s. 550.09511, F.S.; deleting a
 65 provision relating to the payment of certain taxes and
 66 fees by jai alai permitholders conducting fewer than a
 67 specified number of live performances; amending s.
 68 550.09512, F.S.; revising the circumstances for which
 69 a harness horse permitholder's permit is voided for
 70 failing to pay certain taxes; prohibiting the reissue
 71 of such permit; amending ss. 550.105, 550.1155, and
 72 550.1647, F.S.; conforming provisions to changes made
 73 by the act; repealing s. 550.1648, F.S., relating to
 74 greyhound adoptions; amending ss. 550.175, 550.1815,
 75 and 550.24055, F.S.; conforming provisions to changes
 76 made by the act; amending s. 550.2415, F.S.; deleting
 77 provisions relating to the testing, euthanasia,
 78 training, and medication levels of racing greyhounds;
 79 amending s. 550.334, F.S.; conforming provisions to
 80 changes made by the act; amending s. 550.3345, F.S.;
 81 requiring that net revenues derived from specified
 82 licenses issued to not-for-profit corporations be
 83 dedicated to certain purposes; prohibiting the
 84 transfer of such licenses; providing construction;
 85 amending s. 550.3551, F.S.; conforming provisions to
 86 changes made by the act; amending s. 550.3615, F.S.;
 87 conforming provisions to changes made by the act;

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88 prohibiting a person convicted of bookmaking from
 89 attending or being admitted to a pari-mutuel facility;
 90 requiring pari-mutuel facility employees to notify
 91 certain persons of unlawful activities; providing
 92 civil penalties; requiring a permittee to display
 93 certain warnings relating to bookmaking at his or her
 94 pari-mutuel facility; revising applicability; creating
 95 s. 550.3616, F.S.; prohibiting persons authorized to
 96 conduct gaming or pari-mutuel operations in this state
 97 from racing greyhounds or other dogs in connection
 98 with any wager for money or thing of value; providing
 99 criminal penalties; prohibiting the suspension,
 100 deferment, or withholding of adjudication of guilt of
 101 certain persons; amending s. 550.475, F.S.; revising
 102 provisions relating to leasing pari-mutuel facilities;
 103 amending s. 550.5251, F.S.; deleting a prohibition
 104 against thoroughbred racing permitholders beginning
 105 races after a specified time; deleting provisions
 106 relating to the operation of cardrooms by thoroughbred
 107 racing permitholders after a specified time and
 108 receiving and rebroadcasting out-of-state races after
 109 a specified time under certain circumstances; amending
 110 s. 550.615, F.S.; revising requirements relating to
 111 intertrack wagering; specifying that greyhound
 112 permitholders are qualified to receive certain
 113 broadcasts and accept specified wagers; amending s.
 114 550.6305, F.S.; conforming provisions to changes made
 115 by the act; amending s. 550.6308, F.S.; revising
 116 requirements for a limited intertrack wagering

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117 license; revising requirements for intertrack
 118 wagering; deleting requirements for limited intertrack
 119 wagering licensees to make specified payments;
 120 amending s. 551.104, F.S.; conforming provisions to
 121 changes made by the act; amending s. 551.114, F.S.;
 122 revising requirements for the location of designated
 123 slot machine gaming areas; amending s. 551.116, F.S.;
 124 authorizing slot machine gaming areas to be open 24
 125 hours per day throughout the year; amending s.
 126 551.121, F.S.; deleting a provision prohibiting
 127 complimentary or reduced-cost alcoholic beverages to
 128 be served to a person playing a slot machine; amending
 129 s. 565.02, F.S.; conforming provisions to changes made
 130 by the act; amending s. 849.086, F.S.; prohibiting a
 131 cardroom license from being issued to certain
 132 permitholders; revising requirements for a cardroom
 133 license to be issued to certain permitholders;
 134 authorizing cardrooms to be open 24 hours per day;
 135 conforming provisions to changes made by the act;
 136 amending s. 849.14, F.S.; revising criminal penalties
 137 relating to certain bets; creating s. 849.142, F.S.;
 138 specifying that certain activities are not subject to
 139 certain gambling-related prohibitions; creating s.
 140 849.251, F.S.; prohibiting persons from wagering or
 141 accepting anything of value on certain dograces;
 142 prohibiting persons from taking certain actions
 143 related to people associated with or interested in
 144 dogracing; providing criminal penalties; prohibiting
 145 the suspension, deferment, or withholding of

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146 adjudication of guilt of certain persons; providing
 147 applicability; reenacting ss. 380.0651(2)(c),
 148 402.82(4)(c), and 480.0475(1), F.S., relating to
 149 statewide guidelines, the electronic benefits transfer
 150 program, and massage establishments, respectively, to
 151 incorporate the amendments made to s. 550.002, F.S.,
 152 in references thereto; providing severability;
 153 providing contingent effective dates.
 154

155 Be It Enacted by the Legislature of the State of Florida:
 156

157 Section 1. Present subsections (24) through (28) of section
 158 550.002, Florida Statutes, are redesignated as subsections (25)
 159 through (29), respectively, a new subsection (24) is added to
 160 that section, and subsections (11), (17), (20), (21), (22), and
 161 (23) and present subsections (26), (29), and (31) of that
 162 section are amended, to read:

163 550.002 Definitions.—As used in this chapter, the term:

164 (11) "Full schedule of live racing or games" means, for a
 165 ~~greyhound or~~ jai alai permitholder, the conduct of a combination
 166 of at least 100 live evening or matinee performances during the
 167 preceding year; for a permitholder who has a converted permit or
 168 filed an application on or before June 1, 1990, for a converted
 169 permit, the conduct of a combination of at least 100 live
 170 evening and matinee wagering performances during either of the 2
 171 preceding years; for a jai alai permitholder who does not
 172 operate slot machines in its pari-mutuel facility, who has
 173 conducted at least 100 live performances per year for at least
 174 10 years after December 31, 1992, and whose handle on live jai

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175 alai games conducted at its pari-mutuel facility has been less
 176 than \$4 million per state fiscal year for at least 2 consecutive
 177 years after June 30, 1992, the conduct of a combination of at
 178 least 40 live evening or matinee performances during the
 179 preceding year; for a jai alai permitholder who operates slot
 180 machines in its pari-mutuel facility, the conduct of a
 181 combination of at least 150 performances during the preceding
 182 year; for a harness permitholder, the conduct of at least 100
 183 live regular wagering performances during the preceding year;
 184 for a quarter horse permitholder at its facility unless an
 185 alternative schedule of at least 20 live regular wagering
 186 performances is agreed upon by the permitholder and either the
 187 Florida Quarter Horse Racing Association or the horsemen's
 188 association representing the majority of the quarter horse
 189 owners and trainers at the facility and filed with the division
 190 along with its annual date application, in the 2010-2011 fiscal
 191 year, the conduct of at least 20 regular wagering performances,
 192 in the 2011-2012 and 2012-2013 fiscal years, the conduct of at
 193 least 30 live regular wagering performances, and for every
 194 fiscal year after the 2012-2013 fiscal year, the conduct of at
 195 least 40 live regular wagering performances; for a quarter horse
 196 permitholder leasing another licensed racetrack, the conduct of
 197 160 events at the leased facility; and for a thoroughbred
 198 permitholder, the conduct of at least 40 live regular wagering
 199 performances during the preceding year. For a permitholder which
 200 is restricted by statute to certain operating periods within the
 201 year when other members of its same class of permit are
 202 authorized to operate throughout the year, the specified number
 203 of live performances which constitute a full schedule of live

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204 racing or games shall be adjusted pro rata in accordance with
 205 the relationship between its authorized operating period and the
 206 full calendar year and the resulting specified number of live
 207 performances shall constitute the full schedule of live games
 208 for such permitholder and all other permitholders of the same
 209 class within 100 air miles of such permitholder. A live
 210 performance must consist of no fewer than eight races or games
 211 conducted live for each of a minimum of three performances each
 212 week at the permitholder's licensed facility under a single
 213 admission charge.

214 (17) "Intertrack wager" or "intertrack wagering" means a
 215 particular form of pari-mutuel wagering in which wagers are
 216 accepted at a permitted, in-state track, fronton, or pari-mutuel
 217 facility on a race or game transmitted from and performed live
 218 at, or simulcast signal rebroadcast from, another in-state pari-
 219 mutuel facility.

220 (20) "Meet" or "meeting" means the conduct of live racing
 221 or jai alai, or wagering on intertrack or simulcast events, for
 222 any stake, purse, prize, or premium.

223 (21) "Operating day" means a continuous period of 24 hours
 224 starting with the beginning of the first performance of a race
 225 or game, even though the operating day may start during one
 226 calendar day and extend past midnight except that no ~~greyhound~~
 227 ~~race or~~ jai alai game may commence after 1:30 a.m.

228 (22) "Pari-mutuel" or "pari-mutuel wagering" means a system
 229 of betting on races or games in which the winners divide the
 230 total amount bet, after deducting management expenses and taxes,
 231 in proportion to the sums they have wagered individually and
 232 with regard to the odds assigned to particular outcomes.

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(23) "Pari-mutuel facility" means the grounds or property
of a cardroom, racetrack, fronton, or other facility used by a
licensed permitholder for the conduct of pari-mutuel wagering.

(24) "Permitholder" or "permittee" means a holder of a
permit to conduct pari-mutuel wagering in this state as
authorized in this chapter.

~~(27)(26)~~ "Post time" means the time set for the arrival at
the starting point of the horses ~~or greyhounds~~ in a race or the
beginning of a game in jai alai.

~~(29)~~ "Racing greyhound" means ~~a greyhound that is or was~~
~~used, or is being bred, raised, or trained to be used, in racing~~
~~at a pari-mutuel facility and is registered with the National~~
~~Greyhound Association.~~

(31) "Same class of races, games, or permit" means, with
respect to a jai alai permitholder, jai alai games or other jai
alai permitholders; with respect to a greyhound permitholder,
~~greyhound races or~~ other greyhound permitholders conducting
pari-mutuel wagering; with respect to a thoroughbred
permitholder, thoroughbred races or other thoroughbred
permitholders; with respect to a harness permitholder, harness
races or other harness permitholders; with respect to a quarter
horse permitholder, quarter horse races or other quarter horse
permitholders.

Section 2. Section 550.0115, Florida Statutes, is amended
to read:

550.0115 Permitholder operating license.—After a permit has
been issued by the division, and after the permit has been
approved by election, the division shall issue to the
permitholder an annual operating license to conduct pari-mutuel

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wagering operations at the location specified in the permit
pursuant to the provisions of this chapter.

Section 3. Section 550.01215, Florida Statutes, is amended
to read:

550.01215 License application; periods of operation;
license fees; bond, ~~conversion of permit.~~

(1) Each permitholder shall annually, during the period
between December 15 and January 4, file in writing with the
division its application for an operating a license for a pari-
mutuel facility for the conduct of pari-mutuel wagering during
the next state fiscal year, including intertrack and simulcast
race wagering to conduct performances during the next state
fiscal year. Each application for live performances must shall
specify the number, dates, and starting times of all live
performances that ~~which~~ the permitholder intends to conduct. It
must shall also specify which performances will be conducted as
charity or scholarship performances.

(a) ~~In addition,~~ Each application for an operating a
license also must shall include:—

1. For each permitholder, whether the permitholder intends
to accept wagers on intertrack or simulcast events.

2. For each permitholder that ~~which~~ elects to operate a
cardroom, the dates and periods of operation the permitholder
intends to operate the cardroom. ~~or~~

3. For each thoroughbred racing permitholder that ~~which~~
elects to receive or rebroadcast out-of-state races ~~after 7~~
~~p.m.~~, the dates for all performances that ~~which~~ the permitholder
intends to conduct.

(b)1. A greyhound permitholder may not conduct live racing.

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291 A jai alai permitholder, harness horse racing permitholder, or
 292 quarter horse racing permitholder may elect not to conduct live
 293 racing or games. A thoroughbred permitholder must conduct live
 294 racing. A greyhound permitholder, jai alai permitholder, harness
 295 horse racing permitholder, or quarter horse racing permitholder
 296 that does not conduct live racing or games retains its permit;
 297 is a pari-mutuel facility as defined in s. 550.002(23); if such
 298 permitholder has been issued a slot machine license, the
 299 facility where such permit is located remains an eligible
 300 facility as defined in s. 551.102(4), continues to be eligible
 301 for a slot machine license pursuant to s. 551.104(3), and is
 302 exempt from ss. 551.104(4)(c) and (10) and 551.114(2); is
 303 eligible, but not required, to be a guest track and, if the
 304 permitholder is a harness horse racing permitholder, to be a
 305 host track for purposes of intertrack wagering and simulcasting
 306 pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305; and
 307 remains eligible for a cardroom license.

308 2. A permitholder or licensee may not conduct live
 309 greyhound racing or dogracing in connection with any wager for
 310 money or any other thing of value in the state. The division may
 311 deny, suspend, or revoke any permit or license under this
 312 chapter if a permitholder or licensee conducts live greyhound
 313 racing or dogracing in violation of this subparagraph. In
 314 addition to, or in lieu of, denial, suspension, or revocation of
 315 such permit or license, the division may impose a civil penalty
 316 of up to \$5,000 against the permitholder or licensee for a
 317 violation of this subparagraph. All penalties imposed and
 318 collected must be deposited with the Chief Financial Officer to
 319 the credit of the General Revenue Fund.

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320 (c) Permitholders may ~~shall be entitled to~~ amend their
 321 applications through February 28.

322 (d) Notwithstanding any other provision of law, other than
 323 a permitholder issued a permit pursuant to s. 550.3345, a pari-
 324 mutuel permitholder may not be issued an operating license for
 325 the conduct of pari-mutuel wagering, slot machine gaming, or the
 326 operation of a cardroom if the permitholder did not hold an
 327 operating license for the conduct of pari-mutuel wagering for
 328 fiscal year 2020-2021.

329 (2) After the first license has been issued to a
 330 permitholder, all subsequent annual applications for a license
 331 shall be accompanied by proof, in such form as the division may
 332 by rule require, that the permitholder continues to possess the
 333 qualifications prescribed by this chapter, and that the permit
 334 has not been disapproved at a later election.

335 (3) The division shall issue each license no later than
 336 March 15. Each permitholder shall operate all performances at
 337 the date and time specified on its license. The division shall
 338 have the authority to approve minor changes in racing dates
 339 after a license has been issued. The division may approve
 340 changes in racing dates after a license has been issued when
 341 there is no objection from any operating permitholder that is
 342 conducting live racing or games and that is located within 50
 343 miles of the permitholder requesting the changes in operating
 344 dates. In the event of an objection, the division shall approve
 345 or disapprove the change in operating dates based upon the
 346 impact on operating permitholders located within 50 miles of the
 347 permitholder requesting the change in operating dates. In making
 348 the determination to change racing dates, the division shall

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take into consideration the impact of such changes on state revenues. Notwithstanding any other provision of law, and for the 2021-2022 state fiscal year only, the division may approve changes in operating dates for a jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder if the request for such changes is received before October 1, 2021.

(4) In the event that a permitholder fails to operate all performances specified on its license at the date and time specified, the division shall hold a hearing to determine whether to fine or suspend the permitholder's license, unless such failure was the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate all performances on the dates and at the times specified.

(5) In the event that performances licensed to be operated by a permitholder are vacated, abandoned, or will not be used for any reason, any permitholder shall be entitled, pursuant to rules adopted by the division, to apply to conduct performances on the dates for which the performances have been abandoned. The division shall issue an amended license for all such replacement performances which have been requested in compliance with ~~the provisions of~~ this chapter and division rules.

~~(6) Any permit which was converted from a jai alai permit to a greyhound permit may be converted to a jai alai permit at any time if the permitholder never conducted greyhound racing or if the permitholder has not conducted greyhound racing for a~~

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~~period of 12 consecutive months.~~

Section 4. Section 550.0235, Florida Statutes, is amended to read:

550.0235 Limitation of civil liability.—No permitholder licensed to conduct pari-mutuel wagering ~~permitholder conducting a racing meet~~ pursuant to the provisions of this chapter; no division director or employee of the division; and no steward, judge, or other person appointed to act pursuant to this chapter shall be held liable to any person, partnership, association, corporation, or other business entity for any cause whatsoever arising out of, or from, the performance by such permittee, director, employee, steward, judge, or other person of her or his duties and the exercise of her or his discretion with respect to the implementation and enforcement of the statutes and rules governing the conduct of pari-mutuel wagering, so long as she or he acted in good faith. This section shall not limit liability in any situation in which the negligent maintenance of the premises or the negligent conduct of a race contributed to an accident; nor shall it limit any contractual liability.

Section 5. Subsections (1) and (7) of section 550.0351, Florida Statutes, are amended to read:

550.0351 Charity racing days.—

(1) The division shall, upon the request of a permitholder, authorize each horseracing permitholder, ~~dogracing permitholder,~~ and jai alai permitholder up to five charity or scholarship days in addition to the regular racing days authorized by law.

~~(7) In addition to the charity days authorized by this section, any dogracing permitholder may allow its facility to be used for conducting "hound dog derbies" or "mutt derbies" on any~~

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~~day during each racing season by any charitable, civic, or nonprofit organization for the purpose of conducting "hound dog derbies" or "mutt derbies" if only dogs other than those usually used in dogracing (greyhounds) are permitted to race and if adults and minors are allowed to participate as dog owners or spectators. During these racing events, betting, gambling, and the sale or use of alcoholic beverages is prohibited.~~

Section 6. Subsection (4) of section 550.0425, Florida Statutes, is amended to read:

550.0425 Minors attendance at pari-mutuel performances; restrictions.—

~~(4) Minor children of licensed greyhound trainers, kennel operators, or other licensed persons employed in the kennel compound areas may be granted access to kennel compound areas without being licensed, provided they are in no way employed unless properly licensed, and only when under the direct supervision of one of their parents or legal guardian.~~

Section 7. Subsection (2) of section 550.054, Florida Statutes, is amended, paragraph (c) is added to subsection (9) of that section, and subsection (15) is added to that section, to read:

550.054 Application for permit to conduct pari-mutuel wagering.—

(2) Upon each application filed and approved, a permit shall be issued to the applicant setting forth the name of the permitholder, the location of the pari-mutuel facility, the type of pari-mutuel activity desired to be conducted, and a statement showing qualifications of the applicant to conduct pari-mutuel performances under this chapter; however, a permit is

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ineffectual to authorize any pari-mutuel performances until approved by a majority of the electors participating in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities. In addition, an application may not be considered, nor may a permit be issued by the division or be voted upon in any county, to conduct horseraces, harness horse races, or pari-mutuel wagering ~~degraces~~ at a location within 100 miles of an existing pari-mutuel facility, or for jai alai within 50 miles of an existing pari-mutuel facility; this distance shall be measured on a straight line from the nearest property line of one pari-mutuel facility to the nearest property line of the other facility.

(9)

(c) The division shall revoke the permit of any permitholder, other than a permitholder issued a permit pursuant to s. 550.3345, who did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. A permit revoked under this paragraph is void and may not be reissued.

(15) (a) Notwithstanding any other provision of law, a permit for the conduct of pari-mutuel wagering and associated cardroom or slot machine licenses may only be held by a permitholder who held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021;

(b) All permits issued under this chapter held by permitholders on January 1, 2021, are deemed valid for the sole and exclusive purpose of satisfying all conditions for the valid issuance of the permits, if such permitholder held an operating license for the conduct of pari-mutuel wagering for fiscal year

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2020-2021;

(c) Additional permits for the conduct of pari-mutuel wagering may not be approved or issued by the division after January 1, 2021; and

(d) A permit to conduct pari-mutuel wagering may not be converted to another class of permit.

Section 8. Section 550.0745, Florida Statutes, is amended to read:

550.0745 Conversion of pari-mutuel permit to Summer jai alai permit periods of operation. ~~A permit holder issued a permit under former subsection (1) of this section, Florida Statutes 2020, for the operation of a jai alai fronton during the summer season may conduct pari-mutuel wagering throughout the year~~

(1) The owner or operator of a pari-mutuel permit who is authorized by the division to conduct pari-mutuel pools on exhibition sports in any county having five or more such pari-mutuel permits and whose mutuel play from the operation of such pari-mutuel pools for the 2 consecutive years next prior to filing an application under this section has had the smallest play or total pool within the county may apply to the division to convert its permit to a permit to conduct a summer jai alai fronton in such county during the summer season commencing on May 1 and ending on November 30 of each year on such dates as may be selected by such permittee for the same number of days and performances as are allowed and granted to winter jai alai frontons within such county. If a permittee who is eligible under this section to convert a permit declines to convert, a new permit is hereby made available in that permittee's county to conduct summer jai alai games as provided by this section,

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~~notwithstanding mileage and permit ratification requirements. If a permittee converts a quarter horse permit pursuant to this section, nothing in this section prohibits the permittee from obtaining another quarter horse permit. Such permittee shall pay the same taxes as are fixed and required to be paid from the pari-mutuel pools of winter jai alai permittees and is bound by all of the rules and provisions of this chapter which apply to the operation of winter jai alai frontons. Such permittee shall only be permitted to operate a jai alai fronton after its application has been submitted to the division and its license has been issued pursuant to the application. The license is renewable from year to year as provided by law.~~

(2) Such permittee is entitled to the issuance of a license for the operation of a jai alai fronton during the summer season as fixed in this section. A permittee granted a license under this section may not conduct pari-mutuel pools during the summer season except at a jai alai fronton as provided in this section. Such license authorizes the permittee to operate at any jai alai permittee's plant it may lease or build within such county.

(3) Such license for the operation of a jai alai fronton shall never be permitted to be operated during the jai alai winter season; and neither the jai alai winter licensee or the jai alai summer licensee shall be permitted to operate on the same days or in competition with each other. This section does not prevent the summer jai alai permittee from leasing the facilities of the winter jai alai permittee for the operation of the summer meet.

(4) The provisions of this chapter which prohibit the location and operation of jai alai frontons within a specified

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~~distance from the location of another jai alai fronton or other permittee and which prohibit the division from granting any permit at a location within a certain designated area do not apply to the provisions of this section and do not prevent the issuance of a license under this section.~~

Section 9. Subsection (4) of section 550.09511, Florida Statutes, is amended to read:

550.09511 Jai alai taxes; abandoned interest in a permit for nonpayment of taxes.—

~~(4) A jai alai permitholder conducting fewer than 100 live performances in any calendar year shall pay to the state the same aggregate amount of daily license fees on live jai alai games, admissions tax, and tax on live handle as that permitholder paid to the state during the most recent prior calendar year in which the jai alai permitholder conducted at least 100 live performances.~~

Section 10. Paragraph (a) of subsection (3) of section 550.09512, Florida Statutes, is amended to read:

550.09512 Harness horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(3) (a) The permit of a harness horse permitholder who is conducting live harness horse performances and who does not pay tax on handle for any such live harness horse performances conducted for a full schedule of live races during any 2 consecutive state fiscal years shall be void and may not be reissued shall escheat to and become the property of the state unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, hurricane, pandemic, or other disaster or event beyond the ability of the permitholder

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to control. Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate and pay tax on handle.

Section 11. Subsections (2) and (9) of section 550.105, Florida Statutes, are amended to read:

550.105 Occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.—

(2) (a) The following licenses shall be issued to persons or entities with access to the backside, racing animals, jai alai players' room, jockeys' room, drivers' room, totalisator room, the mutuels, or money room, or to persons who, by virtue of the position they hold, might be granted access to these areas or to any other person or entity in one of the following categories and with fees not to exceed the following amounts for any 12-month period:

1. Business licenses: any business such as a vendor, contractual concessionaire, ~~contract kennel~~, business owning racing animals, trust or estate, totalisator company, stable name, or other fictitious name: \$50.

2. Professional occupational licenses: professional persons with access to the backside of a racetrack or players' quarters in jai alai such as trainers, officials, veterinarians, doctors, nurses, EMT's, jockeys and apprentices, drivers, jai alai players, owners, trustees, or any management or officer or director or shareholder or any other professional-level person who might have access to the jockeys' room, the drivers' room, the backside, racing animals, ~~kennel compound~~, or managers or supervisors requiring access to mutuels machines, the money

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room, or totalisator equipment: \$40.

3. General occupational licenses: general employees with access to the jockeys' room, the drivers' room, racing animals, the backside of a racetrack or players' quarters in jai alai, such as grooms, ~~kennel helpers~~, leadouts, pelota makers, cesta makers, or ball boys, or a practitioner of any other occupation who would have access to the animals or, the backside, ~~or the kennel compound~~, or who would provide the security or maintenance of these areas, or mutuel employees, totalisator employees, money-room employees, or any employee with access to mutuels machines, the money room, or totalisator equipment or who would provide the security or maintenance of these areas: \$10.

The individuals and entities that are licensed under this paragraph require heightened state scrutiny, including the submission by the individual licensees or persons associated with the entities described in this chapter of fingerprints for a Federal Bureau of Investigation criminal records check.

(b) The division shall adopt rules pertaining to pari-mutuel occupational licenses, licensing periods, and renewal cycles.

(9) The tax imposed by this section is in lieu of all license, excise, or occupational taxes to the state or any county, municipality, or other political subdivision, except that, if a race meeting or game is held or conducted in a municipality, the municipality may assess and collect an additional tax against any person conducting live racing or games within its corporate limits, which tax may not exceed \$150

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per day for horseracing or \$50 per day for ~~degrading~~ or jai alai. Except as provided in this chapter, a municipality may not assess or collect any additional excise or revenue tax against any person conducting race meetings within the corporate limits of the municipality or against any patron of any such person.

Section 12. Section 550.1155, Florida Statutes, is amended to read:

550.1155 Authority of stewards, judges, panel of judges, or player's manager to impose penalties against occupational licensees; disposition of funds collected.—

(1) The stewards at a horse racetrack, ~~the judges at a dog track~~, or the judges, a panel of judges, or a player's manager at a jai alai fronton may impose a civil penalty against any occupational licensee for violation of the pari-mutuel laws or any rule adopted by the division. The penalty may not exceed \$1,000 for each count or separate offense or exceed 60 days of suspension for each count or separate offense.

(2) All penalties imposed and collected pursuant to this section at each horse ~~or dog~~ racetrack or jai alai fronton shall be deposited into a board of relief fund established by the pari-mutuel permitholder. Each association shall name a board of relief composed of three of its officers, with the general manager of the permitholder being the ex officio treasurer of such board. Moneys deposited into the board of relief fund shall be disbursed by the board for the specific purpose of aiding occupational licenseholders and their immediate family members at each pari-mutuel facility.

Section 13. Section 550.1647, Florida Statutes, is amended to read:

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639 550.1647 Greyhound permitholders; unclaimed tickets;
 640 breaks.—All money or other property represented by any
 641 unclaimed, uncashed, or abandoned pari-mutuel ticket which has
 642 remained in the custody of or under the control of any greyhound
 643 permitholder authorized to conduct ~~greyhound racing~~ pari-mutuel
 644 wagering pools in this state for a period of 1 year after the
 645 date the pari-mutuel ticket was issued, if the rightful owner or
 646 owners thereof have made no claim or demand for such money or
 647 other property within that period of time, shall, ~~with respect~~
 648 ~~to live races conducted by the permitholder,~~ be remitted to the
 649 state pursuant to s. 550.1645; however, such permitholder shall
 650 be entitled to a credit in each state fiscal year in an amount
 651 equal to the actual amount remitted in the prior state fiscal
 652 year which may be applied against any taxes imposed pursuant to
 653 this chapter. In addition, each permitholder shall pay, from any
 654 source, ~~including the proceeds from performances conducted~~
 655 ~~pursuant to s. 550.0351,~~ an amount not less than 10 percent of
 656 the amount of the credit provided by this section to any bona
 657 fide organization that promotes or encourages the adoption of
 658 greyhounds. As used in this chapter, the term “bona fide
 659 organization that promotes or encourages the adoption of
 660 greyhounds” means any organization that provides evidence of
 661 compliance with chapter 496 and possesses a valid exemption from
 662 federal taxation issued by the Internal Revenue Service. Such
 663 bona fide organization, as a condition of adoption, must provide
 664 sterilization of greyhounds by a licensed veterinarian before
 665 relinquishing custody of the greyhound to the adopter. The fee
 666 for sterilization may be included in the cost of adoption.
 667 Section 14. Section 550.1648, Florida Statutes, is

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668 repealed.
 669 Section 15. Section 550.175, Florida Statutes, is amended
 670 to read:
 671 550.175 Petition for election to revoke permit.—Upon
 672 petition of 20 percent of the qualified electors of any county
 673 wherein any pari-mutuel wagering racing has been licensed and
 674 conducted under this chapter, the county commissioners of such
 675 county shall provide for the submission to the electors of such
 676 county at the then next succeeding general election the question
 677 of whether any permit or permits theretofore granted shall be
 678 continued or revoked, and if a majority of the electors voting
 679 on such question in such election vote to cancel or recall the
 680 permit theretofore given, the division may not thereafter grant
 681 any license on the permit so recalled. Every signature upon
 682 every recall petition must be signed in the presence of the
 683 clerk of the board of county commissioners at the office of the
 684 clerk of the circuit court of the county, and the petitioner
 685 must present at the time of such signing her or his registration
 686 receipt showing the petitioner’s qualification as an elector of
 687 the county at the time of the signing of the petition. Not more
 688 than one permit may be included in any one petition; and, in all
 689 elections in which the recall of more than one permit is voted
 690 on, the voters shall be given an opportunity to vote for or
 691 against the recall of each permit separately. Nothing in this
 692 chapter shall be construed to prevent the holding of later
 693 referendum or recall elections.
 694 Section 16. Subsection (1) of section 550.1815, Florida
 695 Statutes, is amended to read:
 696 550.1815 Certain persons prohibited from holding racing or

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jai alai permits; suspension and revocation.—

(1) A corporation, general or limited partnership, sole proprietorship, business trust, joint venture, or unincorporated association, or other business entity may not hold any horseracing or ~~greyhound dog racing~~ permit or jai alai fronton permit in this state if any one of the persons or entities specified in paragraph (a) has been determined by the division not to be of good moral character or has been convicted of any offense specified in paragraph (b).

- (a) 1. The permitholder;
- 2. An employee of the permitholder;
- 3. The sole proprietor of the permitholder;
- 4. A corporate officer or director of the permitholder;
- 5. A general partner of the permitholder;
- 6. A trustee of the permitholder;
- 7. A member of an unincorporated association permitholder;
- 8. A joint venturer of the permitholder;
- 9. The owner of more than 5 percent of any equity interest in the permitholder, whether as a common shareholder, general or limited partner, voting trustee, or trust beneficiary; or
- 10. An owner of any interest in the permit or permitholder, including any immediate family member of the owner, or holder of any debt, mortgage, contract, or concession from the permitholder, who by virtue thereof is able to control the business of the permitholder.

- (b) 1. A felony in this state;
- 2. Any felony in any other state which would be a felony if committed in this state under the laws of this state;
- 3. Any felony under the laws of the United States;

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4. A felony under the laws of another state if related to gambling which would be a felony under the laws of this state if committed in this state; or

5. Bookmaking as defined in s. 849.25.

Section 17. Subsection (2) of section 550.24055, Florida Statutes, is amended to read:

550.24055 Use of controlled substances or alcohol prohibited; testing of certain occupational licensees; penalty; evidence of test or action taken and admissibility for criminal prosecution limited.—

(2) The occupational licensees, by applying for and holding such licenses, are deemed to have given their consents to submit to an approved chemical test of their breath for the purpose of determining the alcoholic content of their blood and to a urine or blood test for the purpose of detecting the presence of controlled substances. Such tests shall only be conducted upon reasonable cause that a violation has occurred as shall be determined solely by the stewards at a horseracing meeting or the judges or board of judges at a ~~dog track~~ or jai alai meet. The failure to submit to such test may result in a suspension of the person's occupational license for a period of 10 days or until this section has been complied with, whichever is longer.

(a) If there was at the time of the test 0.05 percent or less by weight of alcohol in the person's blood, the person is presumed not to have been under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and no action of any sort may be taken by the stewards, judges, or board of judges or the division.

(b) If there was at the time of the test an excess of 0.05

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percent but less than 0.08 percent by weight of alcohol in the person's blood, that fact does not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that the person's faculties were impaired, but the stewards, judges, or board of judges may consider that fact in determining whether or not the person will be allowed to officiate or participate in any given race or jai alai game.

(c) If there was at the time of the test 0.08 percent or more by weight of alcohol in the person's blood, that fact is prima facie evidence that the person was under the influence of alcoholic beverages to the extent that the person's normal faculties were impaired, and the stewards or judges may take action as set forth in this section, but the person may not officiate at or participate in any race or jai alai game on the day of such test.

All tests relating to alcohol must be performed in a manner substantially similar, or identical, to the provisions of s. 316.1934 and rules adopted pursuant to that section. Following a test of the urine or blood to determine the presence of a controlled substance as defined in chapter 893, if a controlled substance is found to exist, the stewards, judges, or board of judges may take such action as is permitted in this section.

Section 18. Paragraph (d) of subsection (5), paragraphs (b) and (c) of subsection (6), paragraph (a) of subsection (9), and subsection (13) of section 550.2415, Florida Statutes, are amended to read:

550.2415 Racing of animals under certain conditions

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prohibited; penalties; exceptions.—

(5) The division shall implement a split-sample procedure for testing animals under this section.

~~(d) For the testing of a racing greyhound, if there is an insufficient quantity of the secondary (split) sample for confirmation of the division laboratory's positive result, the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120.~~

(6)

~~(b) The division shall, by rule, establish the procedures for euthanizing greyhounds. However, a greyhound may not be put to death by any means other than by lethal injection of the drug sodium pentobarbital. A greyhound may not be removed from this state for the purpose of being destroyed.~~

~~(c) It is a violation of this chapter for an occupational licensee to train a greyhound using live or dead animals. A greyhound may not be taken from this state for the purpose of being trained through the use of live or dead animals.~~

(9) (a) The division may conduct a postmortem examination of any animal that is injured at a permitted racetrack while in training or in competition and that subsequently expires or is destroyed. The division may conduct a postmortem examination of any animal that expires while housed at a permitted racetrack, association compound, or licensed ~~kenel~~ or farm. Trainers and owners shall be requested to comply with this paragraph as a condition of licensure.

~~(13) The division may implement by rule medication levels for racing greyhounds recommended by the University of Florida College of Veterinary Medicine developed pursuant to an~~

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~~agreement between the Division of Pari-mutuel Wagering and the University of Florida College of Veterinary Medicine. The University of Florida College of Veterinary Medicine may provide written notification to the division that it has completed research or review on a particular drug pursuant to the agreement and when the College of Veterinary Medicine has completed a final report of its findings, conclusions, and recommendations to the division.~~

Section 19. Subsection (8) of section 550.334, Florida Statutes, is amended to read:

550.334 Quarter horse racing; substitutions.—

~~(8) To be eligible to conduct intertrack wagering, a quarter horse racing permitholder must have conducted a full schedule of live racing in the preceding year.~~

Section 20. Paragraphs (a) and (e) of subsection (2) and subsection (3) of section 550.3345, Florida Statutes, are amended to read:

550.3345 Conversion of quarter horse permit to a limited thoroughbred permit.—

(2) Notwithstanding any other provision of law, the holder of a quarter horse racing permit issued under s. 550.334 may, within 1 year after the effective date of this section, apply to the division for a transfer of the quarter horse racing permit to a not-for-profit corporation formed under state law to serve the purposes of the state as provided in subsection (1). The board of directors of the not-for-profit corporation must be comprised of 11 members, 4 of whom shall be designated by the applicant, 4 of whom shall be designated by the Florida Thoroughbred Breeders' Association, and 3 of whom shall be

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designated by the other 8 directors, with at least 1 of these 3 members being an authorized representative of another thoroughbred permitholder in this state. The not-for-profit corporation shall submit an application to the division for review and approval of the transfer in accordance with s. 550.054. Upon approval of the transfer by the division, and notwithstanding any other provision of law to the contrary, the not-for-profit corporation may, within 1 year after its receipt of the permit, request that the division convert the quarter horse racing permit to a permit authorizing the holder to conduct pari-mutuel wagering meets of thoroughbred racing. Neither the transfer of the quarter horse racing permit nor its conversion to a limited thoroughbred permit shall be subject to the mileage limitation or the ratification election as set forth under s. 550.054(2) or s. 550.0651. Upon receipt of the request for such conversion, the division shall timely issue a converted permit. The converted permit and the not-for-profit corporation shall be subject to the following requirements:

(a) All net revenues derived by the not-for-profit corporation under the thoroughbred horse racing permit and any license issued to the not-for-profit corporation under chapter 849, after the funding of operating expenses and capital improvements, shall be dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under this chapter; the general promotion of the thoroughbred horse breeding industry; and the care in this state of thoroughbred horses retired from racing.

(e) A ~~No~~ permit converted under this section and a license issued to the not-for-profit corporation under chapter 849 are

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871 ~~not is~~ eligible for transfer to another person or entity.

872 (3) Unless otherwise provided in this section, after
873 conversion, the permit and the not-for-profit corporation shall
874 be treated under the laws of this state as a thoroughbred permit
875 and as a thoroughbred permitholder, respectively, with the
876 exception of ss. 550.09515(3) and 550.6308 ~~s. 550.09515(3)~~.

877 Section 21. Subsections (2) and (4), paragraph (a) of
878 subsection (6), and subsection (11) of section 550.3551, Florida
879 Statutes, are amended to read:

880 550.3551 Transmission of racing and jai alai information;
881 commingling of pari-mutuel pools.—

882 (2) Any horse track, ~~dog track~~, or fronton licensed under
883 this chapter may transmit broadcasts of races or games conducted
884 at the enclosure of the licensee to locations outside this
885 state.

886 (a) All broadcasts of horseraces transmitted to locations
887 outside this state must comply with the provisions of the
888 Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. ss.
889 3001 et seq.

890 (b) Wagers accepted by any out-of-state pari-mutuel
891 permitholder or licensed betting system on a race broadcasted
892 under this subsection may be, but are not required to be,
893 included in the pari-mutuel pools of the horse track in this
894 state that broadcasts the race upon which wagers are accepted.
895 The handle, as referred to in s. 550.0951(3), does not include
896 any wagers accepted by an out-of-state pari-mutuel permitholder
897 or licensed betting system, irrespective of whether such wagers
898 are included in the pari-mutuel pools of the Florida
899 permitholder as authorized by this subsection.

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900 (4) Any greyhound permitholder or jai alai permitholder ~~dog~~
901 ~~track or fronton~~ licensed under this chapter may receive at its
902 licensed location broadcasts of dograces or jai alai games
903 conducted at other tracks or frontons located outside the state
904 ~~at the track enclosure of the licensee during its operational~~
905 ~~meeting~~. All forms of pari-mutuel wagering are allowed on
906 dograces or jai alai games broadcast under this subsection. All
907 money wagered by patrons on dograces broadcast under this
908 subsection shall be computed in the amount of money wagered each
909 performance for purposes of taxation under ss. 550.0951 and
910 550.09511.

911 (6) (a) ~~A maximum of 20 percent of the total number of races~~
912 ~~on which wagers are accepted by a greyhound permitholder not~~
913 ~~located as specified in s. 550.615(6) may be received from~~
914 ~~locations outside this state.~~ A permitholder conducting live
915 races or games may not conduct fewer than eight live races or
916 games on any authorized race day except as provided in this
917 subsection. A thoroughbred permitholder may not conduct fewer
918 than eight live races on any race day without the written
919 approval of the Florida Thoroughbred Breeders' Association and
920 the Florida Horsemen's Benevolent and Protective Association,
921 Inc., unless it is determined by the department that another
922 entity represents a majority of the thoroughbred racehorse
923 owners and trainers in the state. If conducting live racing, a
924 harness permitholder may conduct fewer than eight live races on
925 any authorized race day, ~~except that such permitholder must~~
926 ~~conduct a full schedule of live racing during its race meet~~
927 ~~consisting of at least eight live races per authorized race day~~
928 ~~for at least 100 days.~~ Any harness horse permitholder ~~that~~

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929 ~~during the preceding racing season conducted a full schedule of~~
 930 ~~live racing may, at any time during its current race meet,~~
 931 receive full-card broadcasts of harness horse races conducted at
 932 harness racetracks outside this state at the harness track of
 933 the permitholder and accept wagers on such harness races. ~~With~~
 934 ~~specific authorization from the division for special racing~~
 935 ~~events, a permitholder may conduct fewer than eight live races~~
 936 ~~or games when the permitholder also broadcasts out-of-state~~
 937 ~~races or games. The division may not grant more than two such~~
 938 ~~exceptions a year for a permitholder in any 12-month period, and~~
 939 ~~those two exceptions may not be consecutive.~~

940 (11) Greyhound permitholders ~~tracks~~ and jai alai
 941 permitholders ~~frontons~~ have the same privileges as provided in
 942 this section to horserace permitholders ~~horse tracks~~, as
 943 applicable, subject to rules adopted under subsection (10).

944 Section 22. Subsections (1) and (3) through (6) of section
 945 550.3615, Florida Statutes, are amended to read:

946 550.3615 Bookmaking on the grounds of a permitholder;
 947 penalties; reinstatement; duties of track employees; penalty;
 948 exceptions.—

949 (1) Any person who engages in bookmaking, as defined in s.
 950 849.25, on the grounds or property of a pari-mutuel facility
 951 ~~commits permitholder of a horse or dog track or jai alai fronton~~
 952 ~~is guilty of~~ a felony of the third degree, punishable as
 953 provided in s. 775.082, s. 775.083, or s. 775.084.
 954 Notwithstanding the provisions of s. 948.01, any person
 955 convicted under the provisions of this subsection shall not have
 956 adjudication of guilt suspended, deferred, or withheld.

957 (3) Any person who has been convicted of bookmaking in this

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958 state or any other state of the United States or any foreign
 959 country shall be denied admittance to and shall not attend any
 960 pari-mutuel facility ~~racetrack or fronton~~ in this state during
 961 its racing seasons or operating dates, including any practice or
 962 preparational days, for a period of 2 years after the date of
 963 conviction or the date of final appeal. Following the conclusion
 964 of the period of ineligibility, the director of the division may
 965 authorize the reinstatement of an individual following a hearing
 966 on readmittance. Any such person who knowingly violates this
 967 subsection commits ~~is guilty of~~ a misdemeanor of the first
 968 degree, punishable as provided in s. 775.082 or s. 775.083.

969 (4) If the activities of a person show that this law is
 970 being violated, and such activities are either witnessed by or
 971 are common knowledge of ~~by~~ any pari-mutuel facility ~~track or~~
 972 ~~fronton~~ employee, it is the duty of that employee to bring the
 973 matter to the immediate attention of the permitholder, manager,
 974 or her or his designee, who shall notify a law enforcement
 975 agency having jurisdiction. Willful failure by the pari-mutuel
 976 facility on the part of any track or fronton employee to comply
 977 with the provisions of this subsection is a ground for the
 978 division to suspend or revoke that employee's license for pari-
 979 mutuel facility ~~track or fronton~~ employment.

980 (5) Each permittee shall display, in conspicuous places at
 981 a pari-mutuel facility ~~track or fronton~~ and in all race and jai
 982 alai daily programs, a warning to all patrons concerning the
 983 prohibition and penalties of bookmaking contained in this
 984 section and s. 849.25. The division shall adopt rules concerning
 985 the uniform size of all warnings and the number of placements
 986 throughout a pari-mutuel facility ~~track or fronton~~. Failure on

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the part of the permittee to display such warnings may result in the imposition of a \$500 fine by the division for each offense.

(6) This section does not apply to any person ~~attending a track or fronton or~~ employed by or attending a pari-mutuel facility ~~a track or fronton~~ who places a bet through the legalized pari-mutuel pool for another person, provided such service is rendered gratuitously and without fee or other reward.

Section 23. Effective October 1, 2021, section 550.3616, Florida Statutes, is created to read:

550.3616 Racing greyhounds or other dogs prohibited; penalty.—A person authorized to conduct gaming or pari-mutuel operations in this state may not race greyhounds or any member of the *Canis familiaris* subspecies in connection with any wager for money or any other thing of value in this state. A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under this section may not have adjudication of guilt suspended, deferred, or withheld.

Section 24. Section 550.475, Florida Statutes, is amended to read:

550.475 Lease of pari-mutuel facilities by pari-mutuel permit holders.—Holders of valid pari-mutuel permits for the conduct of any pari-mutuel wagering jai-alai games, dog racing, ~~or thoroughbred and standardbred horse racing~~ in this state are

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entitled to lease any and all of their facilities to any other holder of a same class valid pari-mutuel permit ~~for jai-alai games, dog racing, or thoroughbred or standardbred horse racing,~~ when located within a 35-mile radius of each other; and such lessee is entitled to a permit and license to conduct intertrack wagering and operate its race meet or jai alai games at the leased premises.

Section 25. Subsection (2) of section 550.5251, Florida Statutes, is amended to read:

550.5251 Florida thoroughbred racing; certain permits; operating days.—

~~(2) A thoroughbred racing permitholder may not begin any race later than 7 p.m. Any thoroughbred permitholder in a county in which the authority for cardrooms has been approved by the board of county commissioners may operate a cardroom and, when conducting live races during its current race meet, may receive and rebroadcast out-of-state races after the hour of 7 p.m. on any day during which the permitholder conducts live races.~~

Section 26. Subsections (1), (2), and (8) of section 550.615, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

550.615 Intertrack wagering.—

(1) Any thoroughbred horserace ~~horserace~~ permitholder licensed under this chapter which has conducted a full schedule of live racing may, at any time, receive broadcasts of horseraces and accept wagers on horseraces conducted by horserace permitholders licensed under this chapter at its facility.

(2) Except as provided in subsection (1), a pari-mutuel permitholder that has met the applicable requirement for that

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permitholder to conduct live racing or games under s. 550.01215(1)(b), if any, for fiscal year 2020-2021. Any track or fronton licensed under this chapter which in the preceding year conducted a full schedule of live racing is qualified to, at any time, 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 this chapter.

(8) In any three contiguous counties of the state where there are only three permitholders, all of which are greyhound permitholders, if any permitholder leases the facility of another permitholder for all or any portion of the conduct of its live race meet pursuant to s. 550.475, such lessee may conduct intertrack wagering at its pre-lease permitted facility throughout the entire year, ~~including while its live meet is being conducted at the leased facility, if such permitholder has conducted a full schedule of live racing during the preceding fiscal year at its pre-lease permitted facility or at a leased facility, or combination thereof.~~

(11) Any greyhound permitholder licensed under this chapter to conduct pari-mutuel wagering is qualified to, at any time, 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 this chapter.

Section 27. Subsection (2) of section 550.6305, Florida Statutes, is amended to read:

550.6305 Intertrack wagering; guest track payments; accounting rules.—

(2) For the purposes of calculation of odds and payoffs and distribution of the pari-mutuel pools, all intertrack wagers

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shall be combined with the pari-mutuel pools at the host track. ~~Notwithstanding this subsection or subsection (4), a greyhound pari-mutuel permitholder may conduct intertrack wagering without combining pari-mutuel pools on not more than three races in any week, not to exceed 20 races in a year. All other provisions concerning pari-mutuel takeout and payments, including state tax payments, apply as if the pool had been combined.~~

Section 28. Subsections (1), (4), and (5) of section 550.6308, Florida Statutes, are amended to read:

550.6308 Limited intertrack wagering license.—In recognition of the economic importance of the thoroughbred breeding industry to this state, its positive impact on tourism, and of the importance of a permanent thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.

(1) Upon application to the division on or before January 31 of each year, any person that is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01 and that has conducted at least 8 ~~15~~ days of thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years, ~~and that has conducted at least 1 day of nonwagering thoroughbred racing in this state, with a purse structure of at least \$250,000 per year for 2 consecutive years~~ before such application, shall be issued a license, subject to the conditions set forth in this section, to conduct intertrack wagering at such a permanent sales facility ~~during the following periods:~~

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1103 ~~(a) Up to 21 days in connection with thoroughbred sales;~~
 1104 ~~(b) Between November 1 and May 8;~~
 1105 ~~(c) Between May 9 and October 31 at such times and on such~~
 1106 ~~days as any thoroughbred, jai alai, or a greyhound permitholder~~
 1107 ~~in the same county is not conducting live performances; provided~~
 1108 ~~that any such permitholder may waive this requirement, in whole~~
 1109 ~~or in part, and allow the licensee under this section to conduct~~
 1110 ~~intertrack wagering during one or more of the permitholder's~~
 1111 ~~live performances; and~~
 1112 ~~(d) During the weekend of the Kentucky Derby, the~~
 1113 ~~Preakness, the Belmont, and a Breeders' Cup Meet that is~~
 1114 ~~conducted before November 1 and after May 8.~~
 1115
 1116 No more than one such license may be issued, and no such license
 1117 may be issued for a facility located within 50 miles of any
 1118 thoroughbred permitholder's track.
 1119 (4) ~~Intertrack wagering under this section may be conducted~~
 1120 ~~only on thoroughbred horse racing, except that intertrack~~
 1121 ~~wagering may be conducted on any class of pari-mutuel race or~~
 1122 ~~game conducted by any class of permitholders licensed under this~~
 1123 ~~chapter if all thoroughbred, jai alai, and greyhound~~
 1124 ~~permitholders in the same county as the licensee under this~~
 1125 ~~section give their consent.~~
 1126 ~~(5) The licensee shall be considered a guest track under~~
 1127 ~~this chapter. The licensee shall pay 2.5 percent of the total~~
 1128 ~~contributions to the daily pari-mutuel pool on wagers accepted~~
 1129 ~~at the licensee's facility on greyhound races or jai alai games~~
 1130 ~~to the thoroughbred permitholder that is conducting live races~~
 1131 ~~for purses to be paid during its current racing meet. If more~~

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1132 ~~than one thoroughbred permitholder is conducting live races on a~~
 1133 ~~day during which the licensee is conducting intertrack wagering~~
 1134 ~~on greyhound races or jai alai games, the licensee shall~~
 1135 ~~allocate these funds between the operating thoroughbred~~
 1136 ~~permitholders on a pro rata basis based on the total live handle~~
 1137 ~~at the operating permitholders' facilities.~~
 1138 Section 29. Paragraph (c) of subsection (4) of section
 1139 551.104, Florida Statutes, is amended to read:
 1140 551.104 License to conduct slot machine gaming.-
 1141 (4) As a condition of licensure and to maintain continued
 1142 authority for the conduct of slot machine gaming, the slot
 1143 machine licensee shall:
 1144 (c) If a thoroughbred permitholder, conduct no fewer than a
 1145 full schedule of live racing or games as defined in s.
 1146 550.002(11). A permitholder's responsibility to conduct ~~such~~
 1147 ~~number of~~ live races or games shall be reduced by the number of
 1148 races or games that could not be conducted due to the direct
 1149 result of fire, strike, war, hurricane, pandemic, or other
 1150 disaster or event beyond the control of the permitholder.
 1151 Section 30. Subsection (4) of section 551.114, Florida
 1152 Statutes, is amended to read:
 1153 551.114 Slot machine gaming areas.-
 1154 (4) Designated slot machine gaming areas must ~~may~~ be
 1155 located at the address specified in the licensed permitholder's
 1156 slot machine license issued for fiscal year 2020-2021 ~~within the~~
 1157 ~~current live gaming facility or in an existing building that~~
 1158 ~~must be contiguous and connected to the live gaming facility. If~~
 1159 ~~a designated slot machine gaming area is to be located in a~~
 1160 ~~building that is to be constructed, that new building must be~~

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contiguous and connected to the live gaming facility.

Section 31. Section 551.116, Florida Statutes, is amended to read:

551.116 Days and hours of operation.—Slot machine gaming areas may be open 24 hours per day ~~daily~~ throughout the year. ~~The slot machine gaming areas may be open a cumulative amount of 18 hours per day on Monday through Friday and 24 hours per day on Saturday and Sunday and on those holidays specified in s. 110.117(1).~~

Section 32. Subsection (1) of section 551.121, Florida Statutes, is amended to read:

551.121 Prohibited activities and devices; exceptions.—

~~(1) Complimentary or reduced cost alcoholic beverages may not be served to persons playing a slot machine. Alcoholic beverages served to persons playing a slot machine shall cost at least the same amount as alcoholic beverages served to the general public at a bar within the facility.~~

Section 33. Subsection (5) of section 565.02, Florida Statutes, is amended to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(5) A caterer at a pari-mutuel facility licensed under chapter 550 ~~horse or dog racetrack or jai alai fronton~~ may obtain a license upon the payment of an annual state license tax of \$675. Such caterer's license shall permit sales only within the enclosure in which pari-mutuel wagering is conducted ~~such races or jai alai games are conducted, and such licensee shall be permitted to sell only during the period beginning 10 days before and ending 10 days after racing or jai alai~~ under the authority of the Division of Pari-mutuel Wagering of the

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Department of Business and Professional Regulation ~~is conducted at such racetrack or jai alai fronton~~. Except as in this subsection otherwise provided, caterers licensed hereunder shall be treated as vendors licensed to sell by the drink the beverages mentioned herein and shall be subject to all the provisions hereof relating to such vendors.

Section 34. Subsection (5), paragraphs (a) and (b) of subsection (7), and paragraph (d) of subsection (13) of section 849.086, Florida Statutes, are amended to read:

849.086 Cardrooms authorized.—

(5) LICENSE REQUIRED; APPLICATION; FEES.—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(a) Only those persons holding a valid cardroom license issued by the division may operate a cardroom. A cardroom license may only be issued to a licensed pari-mutuel permitholder and an authorized cardroom may only be operated at the same facility at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities. An initial cardroom license shall be issued to a pari-mutuel permitholder only after its facilities are in place and after it conducts its first day of pari-mutuel activities on live racing or games.

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. If a permitholder has operated a cardroom during any of the 3 previous fiscal years and fails to include a renewal request for the operation of the cardroom in its annual

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1219 application for license renewal, the permitholder may amend its
 1220 annual application to include operation of the cardroom.

1221 (c) Notwithstanding any other provision of law, a pari-
 1222 mutuel permitholder, other than a permitholder issued a permit
 1223 pursuant to s. 550.3345, may not be issued a license for the
 1224 operation of a cardroom if the permitholder did not hold an
 1225 operating license for the conduct of pari-mutuel wagering for
 1226 fiscal year 2020-2021. In order for an initial cardroom license
 1227 to be issued to a thoroughbred permitholder issued a permit
 1228 pursuant s. 550.3345, the applicant must have requested, as part
 1229 of its pari-mutuel annual license application, to conduct at
 1230 least a full schedule of live racing. In order for a cardroom
 1231 license to be renewed by a thoroughbred permitholder, the
 1232 applicant must have requested, as part of its pari-mutuel annual
 1233 license application, to conduct at least 90 percent of the total
 1234 number of live performances conducted by such permitholder
 1235 during either the state fiscal year in which its initial
 1236 cardroom license was issued or the state fiscal year immediately
 1237 prior thereto if the permitholder ran at least a full schedule
 1238 of live racing or games in the prior year. ~~If the application is~~
 1239 ~~for a harness permitholder cardroom, the applicant must have~~
 1240 ~~requested authorization to conduct a minimum of 140 live~~
 1241 ~~performances during the state fiscal year immediately prior~~
 1242 ~~thereto. If more than one permitholder is operating at a~~
 1243 ~~facility, each permitholder must have applied for a license to~~
 1244 ~~conduct a full schedule of live racing.~~

1245 (d)(c) Persons seeking a license or a renewal thereof to
 1246 operate a cardroom shall make application on forms prescribed by
 1247 the division. Applications for cardroom licenses shall contain

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1248 all of the information the division, by rule, may determine is
 1249 required to ensure eligibility.

1250 ~~(e)(d)~~ The annual cardroom license fee for each facility
 1251 shall be \$1,000 for each table to be operated at the cardroom.
 1252 The license fee shall be deposited by the division with the
 1253 Chief Financial Officer to the credit of the Pari-mutuel
 1254 Wagering Trust Fund.

1255 (7) CONDITIONS FOR OPERATING A CARDROOM.—

1256 (a) A cardroom may be operated only at the location
 1257 specified on the cardroom license issued by the division, and
 1258 such location may only be the location at which the pari-mutuel
 1259 permitholder is authorized to conduct pari-mutuel wagering
 1260 activities pursuant to such permitholder's valid pari-mutuel
 1261 permit or as otherwise authorized by law. ~~Cardroom operations~~
 1262 ~~may not be allowed beyond the hours provided in paragraph (b)~~
 1263 ~~regardless of the number of cardroom licenses issued for~~
 1264 ~~permitholders operating at the pari-mutuel facility.~~

1265 (b) Any cardroom operator may operate a cardroom at the
 1266 pari-mutuel facility daily throughout the year, if the
 1267 permitholder meets the requirements under paragraph (5) (b). The
 1268 cardroom may be open ~~a cumulative amount of 18 hours per day on~~
 1269 ~~Monday through Friday and 24 hours per day on Saturday and~~
 1270 ~~Sunday and on the holidays specified in s. 110.117(1).~~

1271 (13) TAXES AND OTHER PAYMENTS.—

1272 (d)1. Each ~~greyhound and jai alai~~ permitholder that
 1273 conducts live performances and operates a cardroom facility
 1274 shall use at least 4 percent of such permitholder's cardroom
 1275 monthly gross receipts to supplement ~~greyhound purses or jai~~
 1276 ~~alai prize money, respectively,~~ during the permitholder's next

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ensuing pari-mutuel meet.

2. Each thoroughbred permitholder or and harness horse racing permitholder that conducts live performances and operates a cardroom facility shall use at least 50 percent of such permitholder's cardroom monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders' awards during the permitholder's next ensuing racing meet.

3. No cardroom license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing and conducting live performances unless the applicant has on file with the division a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.

Section 35. Effective October 1, 2021, section 849.14, Florida Statutes, is amended to read:

849.14 Unlawful to bet on result of trial or contest of skill, etc.—Whoever stakes, bets or wagers any money or other thing of value upon the result of any trial or contest of skill, speed or power or endurance of human or beast, or whoever receives in any manner whatsoever any money or other thing of

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value staked, bet or wagered, or offered for the purpose of being staked, bet or wagered, by or for any other person upon any such result, or whoever knowingly becomes the custodian or depository of any money or other thing of value so staked, bet, or wagered upon any such result, or whoever aids, or assists, or abets, or influences in any manner in any of such acts all of which are hereby forbidden, commits ~~shall be guilty of a felony~~ misdemeanor of the third ~~second~~ degree, punishable as provided in s. 775.082 or s. 775.083.

Section 36. Section 849.142, Florida Statutes, is created to read:

849.142 Exempted activities.—Sections 849.01, 849.08, 849.09, 849.11, 849.14, and 849.25 do not apply to participation in or the conduct of any of the following activities:

(1) Gaming activities authorized under s. 285.710(13) and conducted pursuant to a gaming compact ratified and approved under s. 285.710(3).

(2) Amusement games conducted pursuant to chapter 546.

(3) Pari-mutuel wagering conducted pursuant to chapter 550.

(4) Slot machine gaming conducted pursuant to chapter 551.

(5) Games conducted pursuant to s. 849.086.

(6) Bingo games conducted pursuant to s. 849.0931.

Section 37. Effective October 1, 2021, section 849.251, Florida Statutes, is created to read:

849.251 Wagering, aiding, abetting, or conniving to race or wager on greyhounds or other dogs; penalty.—

(1) A person in this state may not wager or accept money or any other thing of value on the outcome of a live dog race occurring in this state. A person who violates this subsection

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commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who aids, abets, influences, or has any understanding or connivance with any person associated with or interested in any race of or wager on greyhounds or other dogs in this state, to organize or arrange a race of or wager on greyhounds or other dogs in this state, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Notwithstanding the provisions of s. 948.01, any person convicted under subsection (1) or subsection (2) may not have adjudication of guilt suspended, deferred, or withheld.

(4) This section does not apply to pari-mutuel wagering authorized under chapter 550.

Section 38. For the purpose of incorporating the amendment made by this act to section 550.002, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 380.0651, Florida Statutes, is reenacted to read:

380.0651 Statewide guidelines, standards, and exemptions.—

(2) STATUTORY EXEMPTIONS.—The following developments are exempt from s. 380.06:

(c) Any proposed addition to an existing sports facility complex if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled

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hours of operation of the existing facility;

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility; and

3. The sports facility complex property was owned by a public body before July 1, 1983.

This exemption does not apply to any pari-mutuel facility as defined in s. 550.002.

If a use is exempt from review pursuant to paragraphs (a)-(u), but will be part of a larger project that is subject to review pursuant to s. 380.06(12), the impact of the exempt use must be included in the review of the larger project, unless such exempt use involves a development that includes a landowner, tenant, or user that has entered into a funding agreement with the state land planning agency under the Innovation Incentive Program and the agreement contemplates a state award of at least \$50 million.

Section 39. For the purpose of incorporating the amendment made by this act to section 550.002, Florida Statutes, in a reference thereto, paragraph (c) of subsection (4) of section 402.82, Florida Statutes, is reenacted to read:

402.82 Electronic benefits transfer program.—

(4) Use or acceptance of an electronic benefits transfer card is prohibited at the following locations or for the following activities:

(c) A pari-mutuel facility as defined in s. 550.002.

Section 40. For the purpose of incorporating the amendment made by this act to section 550.002, Florida Statutes, in a

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reference thereto, subsection (1) of section 480.0475, Florida Statutes, is reenacted to read:

480.0475 Massage establishments; prohibited practices.—

(1) A person may not operate a massage establishment between the hours of midnight and 5 a.m. This subsection does not apply to a massage establishment:

(a) Located on the premises of a health care facility as defined in s. 408.07; a health care clinic as defined in s. 400.9905(4); a hotel, motel, or bed and breakfast inn, as those terms are defined in s. 509.242; a timeshare property as defined in s. 721.05; a public airport as defined in s. 330.27; or a pari-mutuel facility as defined in s. 550.002;

(b) In which every massage performed between the hours of midnight and 5 a.m. is performed by a massage therapist acting under the prescription of a physician or physician assistant licensed under chapter 458, an osteopathic physician or physician assistant licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, an advanced practice registered nurse licensed under part I of chapter 464, or a dentist licensed under chapter 466; or

(c) Operating during a special event if the county or municipality in which the establishment operates has approved such operation during the special event.

Section 41. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are

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severable.

Section 42. Except as otherwise expressly provided in this act, this act shall take effect on the same date that SB 2A or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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 Committee on Appropriations

BILL: SB 10A

INTRODUCER: Senator Hutson

SUBJECT: Pari-mutuel Facility Bingo Games and Instant Bingo

DATE: May 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer/Imhof	Sadberry	AP	Pre-meeting
2.				
3.				

I. Summary:

SB 10A authorizes the conduct of bingo games and instant bingo at pari-mutuel facilities licensed to conduct such gaming.

See Section V, Fiscal Impact Statement.

The bill takes effect on the same date that SB 2A (Implementation of the 2021 Gaming Compact) or similar legislation is adopted in the same legislative session and becomes a law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

- Cardrooms⁸ at certain pari-mutuel facilities;⁹
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;¹⁰
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S., the Family Amusement Games Act;¹¹ and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
 - Penny-ante games;¹²
 - Bingo;¹³
 - Charitable drawings;¹⁴
 - Game promotions (sweepstakes);¹⁵ and
 - Bowling tournaments.¹⁶

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁷

Regulation of Pari-mutuel Wagering

The Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) regulates pari-mutuel wagering. 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.

Issuance of Pari-mutuel Permits and Annual Licenses

Section 550.054, F.S., provides that any person meeting the qualification requirements of ch. 550, F.S., may apply to the division for a permit to conduct pari-mutuel wagering. Upon approval, a permit must be issued to the applicant that indicates:

- The name of the permitholder;

⁸ Section 849.086, F.S. See s. 849.086(2)(c), F.S., which 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 charged a fee for participation by the operator of such facility.”

⁹ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited Apr. 7, 2021).

¹⁰ Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹¹ See s. 546.10, F.S.

¹² See s. 849.085, F.S.

¹³ See s. 849.0931, F.S.

¹⁴ See s. 849.0935, F.S.

¹⁵ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁶ See s. 849.141, F.S.

¹⁷ 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).

- The location of the pari-mutuel facility;
- The type of pari-mutuel activity to be conducted; and
- A statement showing qualifications of the applicant to conduct pari-mutuel performances under ch. 550, F.S.

Pursuant to s. 550.054(9)(b), F.S., the division may revoke or suspend any permit or license upon the willful violation by the permitholder or licensee of any provision of ch. 550, F.S., or any administrative rule adopted by the division, and may impose a civil penalty against the permitholder or license up to \$1,000 for each offense.

Slot Machine Gaming Locations and Operations

Section 32 of Art. X of the State Constitution, adopted pursuant to a 2004 initiative petition, authorized slot machines in licensed pari-mutuel facilities in Broward and Miami-Dade counties, if approved by county referendum. The voters in Broward and Miami-Dade counties approved slot machine gaming. Slot machine gaming in the state is limited to Broward and Miami-Dade counties, and as authorized by federal law, in the tribal gaming facilities of the Seminole Tribe.

Cardrooms

Section 849.086, F.S., authorizes cardrooms at certain pari-mutuel facilities.¹⁸ In Fiscal Year 2021-2022, 27 cardrooms are licensed to operate.¹⁹ 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.²⁰ A cardroom may be open 18 hours per day on Monday through Friday, and 24 hours per day on Saturday and Sunday.²¹ An initial cardroom license may be issued to a pari-mutuel permitholder only after its facilities are in place and it has conducted its first day of live racing. In order to renew a cardroom license, the licensee must have requested, as part of its annual pari-mutuel license application, to conduct at least 90 percent of the total performances it conducted in the prior fiscal year.

Bingo Games and Instant Bingo by Charitable Organizations

The play of bingo games and instant bingo under current law (charitable bingo) must meet numerous requirements and is restricted as set forth in s. 849.0931, F.S. Section 849.0931(12), F.S., specifies numerous requirements for the conduct of charitable bingo. Pursuant to s. 849.0931(1)(c) and (4), F.S., organizations that are authorized to conduct bingo games include:

¹⁸ Section 849.086, F.S. Section 849.086(2)(c), F.S., defines “cardroom” to mean a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility.

¹⁹ See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited May 11, 2021).

²⁰ *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, 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). 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.”

²¹ Section 849.086(7)(b), F.S.

- Charitable, nonprofit, and veterans' organizations, which are defined as tax-exempt under 501(c) of the Internal Revenue Code of 1954, or section 528 of the Internal Revenue Code of 1986, and have been in existence and active for at least three years.
- Condominium associations, cooperative associations, homeowners' associations as defined in s. 720.301, F.S., mobile home owners' associations, and a group of residents of a mobile home park or recreational vehicle park, as defined in ch. 723 and ch. 513, F.S.

Any organization or other person who willfully and knowingly violates s. 849.0931, F.S., commits a misdemeanor of the first degree, punishable by a term of imprisonment not to exceed one year and a fine not to exceed \$1,000.²²

Bingo Games and Instant Bingo Conducted at Pari-mutuel Facilities

The conduct of bingo games and instant bingo at licensed pari-mutuel facilities is not authorized under current law.

III. Effect of Proposed Changes:

Section 1 amends s. 550.01215 F.S., to require a permitholder applying for an annual operating license who elects to conduct bingo games or instant bingo, to indicate in the application, the proposed operating dates and times for such activity.

Section 2 amends s. 550.0251, F.S., to grant rulemaking authority to the division to adopt, amend, or repeal rules related to bingo games and instant bingo in pari-mutuel facilities, to enforce and carry out the provisions of s. 849.089, F.S., created by the bill, relating to same, and to regulate bingo games and instant bingo conducted in pari-mutuel facilities. The division is to suspend a permitholder's permit or license, if such permitholder is conducting bingo games or instant bingo and such permitholder's bingo license has been suspended or revoked.

Section 3 amends s. 550.054, F.S., relating to pari-mutuel permits, to include a reference to bingo games and instant bingo.

Section 4 creates s. 849.089, F.S., authorizing the conduct of bingo games and instant bingo at licensed pari-mutuel facilities (i.e., pari-mutuel bingo). Under the bill, as is the case with bingo games and instant bingo conducted by charitable organizations pursuant to s. 849.0931, F.S., it is not a crime for a person to participate in pari-mutuel bingo at licensed pari-mutuel facilities, if such games are conducted strictly in accordance with Florida law.

The bill sets forth the following statement of legislative intent for pari-mutuel bingo:

It is the intent of the Legislature to provide additional entertainment choices for the residents of and visitors to this state, promote tourism in this state, and provide contributions for nonprofit organizations through the authorization of bingo games and instant bingo at licensed pari-mutuel facilities in this state. To ensure public confidence in the integrity of bingo

²² See s. 849.0931(14), F.S.

games and instant bingo, this act is designed to strictly regulate the facilities, persons, and procedures related to bingo games and instant bingo.

Under the bill, a “bingo operator” means a licensed pari-mutuel permitholder that holds a valid permit and operating license issued by the division pursuant to ch. 550, F.S, as well as a valid bingo license issued by the division to authorize the permitholder to conduct pari-mutuel bingo at the permitholder’s licensed pari-mutuel facility.

The term “bingo management company” means any individual who is not an employee of a bingo operator, or any proprietorship, partnership, corporation, or other entity that enters into an agreement with a bingo operator to manage, operate, or otherwise control the daily conduct of pari-mutuel bingo on the bingo operator’s licensed premises.

Many of the pari-mutuel bingo terms in the bill are the same as those used in s. 849.0931, F.S, relating to the conduct of bingo and instant bingo by charitable organizations. These terms include “bingo card,” “bingo game,” “deal,” “flare,” “instant bingo,” “objects,” “rack,” “receptacle,” and “session.”

The bill provides the division must administer and regulate pari-mutuel bingo, and may:

- Adopt rules, including, but not limited to, the issuance of bingo and employee licenses for bingo activities, the conduct of bingo games and instant bingo, recordkeeping and reporting requirements, and required contributions from bingo proceeds to nonprofit organizations; rules may not conflict with, and must be applied, construed, and interpreted in a manner consistent with the 2021 Gaming Compact.
- Conduct investigations and monitor the conduct of bingo games and instant bingo in pari-mutuel facilities.
- Review the books, accounts, and records of any current or former bingo operator.
- Suspend or revoke any license or permit, after a hearing, for any violation of this section or the administrative rules adopted pursuant thereto.
- Take testimony, issue summons and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

Licensing of Bingo Operators and Employees

SB 14A, relating to Fees/Pari-mutuel Bingo Games and Instant Bingo is linked to this bill, and addresses the imposition of licensing fees for the conduct of pari-mutuel bingo.

Under the bill, a person may not conduct pari-mutuel bingo at a Florida pari-mutuel facility without a valid bingo license, and only those with a valid bingo license may conduct pari-mutuel bingo at a bingo operator’s licensed premises. A bingo license may only be issued to a licensed pari-mutuel permitholder, and bingo games and instant bingo may only be conducted at the same licensed premises at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities. A bingo management company must hold a valid bingo business occupational license issued by the division.

After issuance of an initial bingo license, the application for the annual license renewal must be made in conjunction with the applicant’s annual application for its pari-mutuel license. If a

permitholder has conducted pari-mutuel bingo during any of the three previous fiscal years and fails to include a renewal request in its annual application for license renewal, the permitholder may amend its annual application to include pari-mutuel bingo. The division must establish by rule a schedule for the renewal of bingo occupational licenses.

Applications for bingo licenses and bingo occupational licenses, on forms prescribed by the division, must contain all information the division, by rule, determines is required to ensure eligibility. A person employed or otherwise working at a pari-mutuel facility conducting pari-mutuel bingo as a bingo manager or caller, or performing any other activity related to pari-mutuel bingo while the facility is conducting pari-mutuel bingo, must hold a valid bingo employee occupational license issued by the division. Food service, maintenance, and security employees with a current pari-mutuel occupational license and a current background check are not required to have a bingo employee occupational license. Bingo occupational licenses are not transferable.

A licensed bingo operator may not employ or allow to work in a room or area set aside for bingo on the bingo operator's licensed premises any person who does not hold a valid occupational license. A licensed bingo operator may not contract or otherwise do business with a business required to hold a valid bingo business occupational license unless the business holds such license.

The division must adopt rules relating to bingo occupational licenses, and s. 550.105(4) through (8) and (10), F.S., relating to licensure also applies to bingo occupational licenses.

The division may deny, declare ineligible, or revoke any bingo occupational license if the applicant or holder thereof has been found guilty or had adjudication withheld in this state or any other state or under the laws of the United States of a felony or misdemeanor involving forgery, larceny, extortion, conspiracy to defraud, or filing false reports to a government agency or a racing or gaming commission or authority.

Fingerprints for all bingo occupational license applications must be taken in a manner approved by the division and submitted to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a criminal records check upon initial application and at least every five years thereafter. The division may require by rule an annual record check of all renewal applications for a bingo occupational license. The cost of processing fingerprints and conducting a record check must be borne by the applicant.

Electronic Bingo Card Minders

Under the bill, an "electronic bingo card minder" may only be used as a bingo aid device for authorized pari-mutuel bingo outside of Broward County or Miami-Dade County. Such devices must be certified in advance by an independent testing laboratory (as defined in the bill) approved by the division, or any successor agency, and meet all of the following requirements:

- The device must aid a bingo game player by:
 - Storing in the memory of the device not more than three bingo faces of tangible bingo cards purchased by a player;
 - Comparing the numbers drawn and then individually entered into the device by the player to the bingo faces previously stored in the memory of the device; and
 - Identifying preannounced winning bingo patterns marked or covered on the stored bingo faces.
- The device must not be capable of accepting or dispensing any coins, currency, or tokens.
- The device must not be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.
- The device must not be capable of displaying or representing the game result through any means other than highlighting the winning numbers marked or covered on the bingo card face or giving an audio alert that the player's card has a prize-winning pattern. No casino game graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, craps, roulette, or lotto, may be used.
- The device must not be capable of determining the outcome of any game.
- Progressive prizes in excess of \$2,500 are prohibited.
- Other than progressive prizes not to exceed \$2,500, no prize exceeding \$1,000 may be awarded.
- No electronic bingo card minder may contain more than one player position for playing bingo.
- No electronic bingo card minder may contain or be linked to more than one video display.
- Prizes must be awarded based solely on the results of the bingo game, and no additional element of chance may be used.

Under the bill, the number of electronic bingo card minders in operation at a pari-mutuel facility is limited to 350 minders, pursuant to requirements in the 2021 Gaming Compact.

Taxation of Pari-mutuel Bingo Operations

SB 12A (Taxes/Pari-mutuel Facility Bingo Games and Instant Bingo) is linked to this bill, and addresses the imposition of licensing fees for the conduct of pari-mutuel bingo.

As a condition of licensure, a bingo operator must contribute the entire net proceeds received from bingo games and instant bingo on at least 21 calendar days each year to one or more nonprofit organizations chosen by the bingo operator. A bingo operator must report such contributions to the division in the format prescribed by the division, including, but not limited to, the amounts and dates of such contributions and the organizations to whom such contributions were made.

Bingo games and instant bingo are deemed an accessory use to a licensed pari-mutuel operation and, except as provided in ch. 550, F.S., a municipality, county, or political subdivision may not assess or collect any license tax, sales tax, or excise tax on such bingo games or instant bingo.

The term “gross receipts” means the total amount of money received by a bingo operator from any person for participation in bingo games, including, but not limited to, authorized participation fees or the sale of instant bingo tickets.

The term “net proceeds” means the total amount of gross receipts received by a bingo operator from conducting bingo games and instant bingo less direct operating expenses related to conducting such games, including labor costs, contributions to nonprofit organizations required by the bill, and reasonable promotional costs, but excluding officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead and depreciation expenses not directly related to conducting bingo games or instant bingo.

The term “nonprofit organization” means an organization exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

Conducting Pari-mutuel Bingo

The bill requires that various requirements be met for the conduct of pari-mutuel bingo, which are often the same as the requirements for the conduct of authorized bingo by charitable organizations.

Pari-mutuel bingo may be conducted only at the licensed premises specified on the bingo license issued by the division, and such premises may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder’s valid pari-mutuel permit or as otherwise authorized by law. A bingo operator may conduct bingo games and instant bingo at the pari-mutuel facility daily throughout the year. Bingo games and instant bingo may be conducted 24 hours per day.

A bingo operator must employ a nonplaying caller for each bingo game at all times. Such callers may not have a participatory interest in any bingo game other than announcing the game and may not have an interest in the outcome of the game. The licensee providing such callers does not constitute the conducting of a banking game by the bingo operator.

Each bingo operator must conspicuously post upon the licensed premises a notice which contains a copy of the bingo license, any house rules regarding the conduct and play of pari-mutuel bingo, and all costs for players to participate.

A bingo operator’s premises are subject to inspection by the division or any law enforcement agency during regular business hours, and the inspection must include the permitholder’s internal control procedures approved by the division.

Each bingo game must be conducted in accordance with the following:

- The objects, whether drawn or ejected, must be essentially equal in size, shape, weight, and balance and in all other characteristics that may control their selection from the receptacle. The caller must cancel any game if, during the course of a game, the mechanism used in the drawing or ejection of objects becomes jammed in such a manner as to interfere with the accurate determination of the next number to be announced or if the caller determines that

more than one object is labeled with the same number or that there is a number to be drawn without a corresponding object. Any player in such a game that is canceled may play the next game free of charge;

- Before commencement of any bingo session, a licensed employee must require a verification of all objects to be placed in the receptacle and must inspect the objects in the presence of a disinterested person to ensure that all objects are present and that there are no duplications or omissions of numbers on the objects. Any player is entitled to call for a verification of numbers before, during, or after a session;
- The card or sheet on which the game is played must be part of a deck, group, or series, no two of which may be alike in any given game;
- All numbers must be visibly displayed after being drawn and before being placed in the rack;
- A bona fide bingo must consist of a predesignated arrangement of numbers on a card or sheet which correspond with the numbers on the objects drawn from the receptacle and announced. Errors in numbers announced or misplaced in the rack may not be recognized as a bingo;
- When a caller has started to vocally announce a number, the caller must complete the call. If any player has obtained a bingo on a previous number, such player must share the prize with the player who gained bingo on the last number called;
- Numbers on the winning cards or sheets must be announced and verified in the presence of another player. Any player is entitled at the time the winner is determined to call for a verification of numbers drawn. The verification must be in the presence of the caller, the player determined to be the winner, the player calling for verification of the numbers drawn, and the bingo manager or an officer of the licensee;
- Upon determining a winner, the caller must ask, "Are there any other winners?" If no one replies, the caller must declare the game closed. No other player is entitled to share the prize unless she or he declared bingo before the declaration; and
- Seats may not be held or reserved for players who are not present, and cards may not be set aside, held, or reserved from one session to another for any player.

Instant bingo tickets must be sold at the price printed on the ticket or on the game flare by the manufacturer. Discounts may not be given for the purchase of multiple tickets, and tickets may not be given away free of charge.

Each deal of instant bingo tickets must be accompanied by a flare, and the flare must be posted before the sale of any tickets in that deal. Each instant bingo ticket in a deal must bear the same serial number, and there may not be more than one serial number in each deal. Serial numbers printed on a deal of instant bingo tickets may not be repeated by the manufacturer on the same form for a period of three years. The serial number for each deal must be clearly and legibly placed on the outside of each deal's package, box, or other container. Instant bingo tickets manufactured, sold, or distributed in this state must comply with the applicable standards on pull-tabs of the North American Gaming Regulators Association.

Except for tickets in compliance with standards of the North American Gaming Regulators Association, an instant bingo ticket manufactured, sold, or distributed in this state must:

- Be manufactured so that it is not possible to identify whether it is a winning or losing instant bingo ticket until it has been opened by the player as intended;

- Be manufactured using at least two-ply paper stock construction so that the instant bingo ticket is opaque;
- Have the form number, the deal's serial number, and the name or logo of the manufacturer conspicuously printed on the face or cover of the instant bingo ticket; and
- Have a form of winner protection that allows the organization to verify, after the instant bingo ticket has been played, that the winning instant bingo ticket presented for payment is an authentic winning instant bingo ticket for the deal in play. The manufacturer must provide a written description of the winner protection with each deal of instant bingo tickets.

Each manufacturer and distributor that sells or distributes instant bingo tickets in this state to bingo operators or bingo management companies must prepare an invoice that contains the following information:

- The date of sale;
- The form number and serial number of each deal sold;
- The number of instant bingo tickets in each deal sold;
- The name of the distributor, bingo operator, or bingo management company to whom each deal is sold; and
- The price of each deal sold.

All information contained on an invoice must be maintained by the distributor and manufacturer for three years and the invoice or a true and accurate copy thereof must be kept on the licensed premises where any deal of instant bingo tickets is stored or in play.

The bingo operator may charge a fee for players to participate in bingo games. Such fee may be a flat fee or hourly rate or a fee per bingo card. Notice of the amount of the participation fee must be posted in a conspicuous place on the licensed premises at all times.

Each licensee conducting pari-mutuel bingo must keep and maintain daily records of its bingo activities and must maintain such records for at least three years. These records must include all financial transactions and contain sufficient detail to determine compliance with this section. All records must be available for audit and inspection by the division or law enforcement agencies during regular business hours. The information required in such records must be determined by division rule.

Each licensee conducting pari-mutuel bingo must file with the division a report containing the required records of such bingo activities. Such report must be filed monthly by licensees. The required reports must be submitted on forms prescribed by the division, are due at the same time the monthly pari-mutuel reports are due to the division, must contain any additional information deemed necessary by the division, and are public records once filed.

Prohibited Activities and Penalties

Under the bill, a person may not operate or permit the operation of a device that displays bingo cards or instant bingo tickets, or the results from the play of bingo or instant bingo, using a video or electromechanical format, including, but not limited to, any device that displays any aspect of the bingo game or instant bingo game using casino game graphics, themes, or titles, including,

but not limited to, depictions of slot machine-style symbols, cards, craps, roulette, or lotto. However, bingo may be played using an electronic bingo card minder as defined.

A person under 18 years of age may not hold a bingo operator or occupational license or participate in any pari-mutuel bingo game or instant bingo. A bingo operator may refuse entry to or refuse to allow any person to play who is objectionable, undesirable, or disruptive, but such refusal may not be on the basis of race, creed, color, religion, gender, national origin, marital status, physical handicap, or age (except for being under 18 years of age).

License Suspension and Revocation; Imposition of Fines

The division may deny a license or the renewal thereof or may suspend or revoke a license if the applicant or licensee has violated or failed to comply with this section or any rule adopted pursuant thereto; knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rule adopted pursuant thereto; obtained a license or permit by fraud, misrepresentation, or concealment; or if the holder of such license is no longer eligible for a license under this section.

If a pari-mutuel permitholder's pari-mutuel permit or license is suspended or revoked by the division pursuant to ch. 550, F.S., the division may, but is not required to, suspend or revoke such permitholder's bingo license. If a bingo operator's license is suspended or revoked pursuant to this section, the division may, but is not required to, suspend or revoke such licensee's pari-mutuel permit or license.

The division may impose an administrative fine not to exceed \$1,000 for each violation against any person who has violated or failed to comply with this section or any rule adopted pursuant thereto.

Criminal Penalties and Injunctive Authority

Any person who conducts bingo games or instant bingo on the licensed premises of a pari-mutuel facility without a valid license commits a felony of the third degree, punishable by a term of imprisonment not to exceed five years, and a fine not to exceed \$5,000.

Any licensee or permitholder who violates s. 849.089, F.S., relating to pari-mutuel bingo commits a misdemeanor of the first degree, punishable by a term of imprisonment not to exceed one year, and a fine not to exceed \$1,000. Any licensee or permitholder who commits a second or subsequent violation of the same paragraph or subsection commits a third degree felony, punishable by a term of imprisonment not to exceed five years, and a fine not to exceed \$5,000.

Any organization or other person who willfully and knowingly violates s. 849.089(10)(a), F.S., relating to the prohibited use of a device (other than an electronic bingo card minder as defined) that displays bingo cards or instant bingo tickets, or the results from the play of bingo or instant bingo, using a video or electromechanical format, including, but not limited to, any device that displays any aspect of the bingo game or instant bingo game using casino game graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, craps, roulette, or lotto, commits a misdemeanor of the first degree, punishable by a term of

imprisonment not to exceed one year, and a fine not to exceed \$1,000. For a second or subsequent offense, the organization or other person commits a felony of the third degree, punishable by a term of imprisonment not to exceed five years, and a fine not to exceed \$5,000.

The division, any state attorney, the statewide prosecutor, or the Attorney General may apply for a temporary or permanent injunction restraining further violation of this section, and such injunction shall issue without bond.

Section 5 amends s. 849.0931, F.S., to:

- Prohibit an organization or person from operating or permitting the operation of a device, other than a hand-held or table-top bingo card minder authorized under s. 849.0931(15), F.S., that displays bingo cards or instant bingo tickets, or the results from the play of bingo or instant bingo, using a video or electromechanical format, including, but not limited to, any device that displays any aspect of the bingo or instant bingo game using casino game graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, craps, roulette, or lotto; and
- Allow the use of hand-held or table-top bingo card minders in connection with bingo games in compliance with s. 849.0931, F.S., if the card minders:
 - Require players to manually input each individual number or symbol announced by a live caller; and
 - Do not display or represent the game result through any means, including, but not limited to, video or mechanical reels or other slot machine or casino game themes.

Under the bill, hand-held or table-top bingo card minders may highlight the winning numbers or symbols marked or covered on the flat piece of paper or thin pasteboard bingo card, or give an audio alert that the player's card has a prize-winning pattern.

Section 6 creates s. 849.143, F.S., to provide the gambling restrictions, penalties, and prohibitions in ss. 849.01, 849.08, 849.09, 849.11, 849.14, and 849.25, F.S., do not apply to participating in or conducting bingo games and instant bingo conducted pursuant to s. 849.089, F.S. (at licensed pari-mutuel facilities).

Section 7 provides, if SB 4A (Gaming Enforcement) becomes a law in the 2021 Special Session A, the portion of SB 4A relating to a Type Two transfer of various powers, duties and funds of the DBPR to the Florida Gaming Control Commission, is amended to include in the transfer such powers, duties, and funds relating to the regulation of bingo and instant bingo player at licensed pari-mutuel facilities pursuant to s. 849.089, F.S.

Section 8 provides the bill takes effect on the same date that SB 2A (Implementation of the 2021 Gaming Compact) or similar legislation is adopted in the same legislative session and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Licensed pari-mutuel permitholders that conduct bingo games and instant bingo (bingo operators) will be required to meet various requirements imposed by the bill which will have associated costs.

C. Government Sector Impact:

The division must implement the provisions of the bill and adopt forms and procedures for the licensing of bingo operators and bingo employees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 550.01215, 550.0251, 550.054, and 849.0931.

This bill creates the following sections of the Florida Statutes: 849.089 and 849.143.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

By Senator Hutson

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1 A bill to be entitled
 2 An act relating to bingo; amending s. 550.01215, F.S.;
 3 requiring applicants for an operating license to
 4 include dates the applicant intends to conduct bingo
 5 games or instant bingo; amending s. 550.0251, F.S.;
 6 specifying that the Division of Pari-mutuel Wagering
 7 has specific powers and duties relating to bingo games
 8 and instant bingo; amending s. 550.054, F.S.;
 9 conforming provisions to changes made by the act;
 10 creating s. 849.089, F.S.; providing legislative
 11 intent; defining terms; specifying that it is not a
 12 crime for a person to participate in bingo games or
 13 instant bingo under certain circumstances; capping the
 14 number of electronic bingo card minders that may be in
 15 operation; providing authorizations and requirements
 16 for the division relating to bingo games and instant
 17 bingo; authorizing the division to adopt rules;
 18 requiring a person to have a bingo license to conduct
 19 bingo games or instant bingo at a pari-mutuel facility
 20 in this state; providing requirements and prohibitions
 21 relating to such license; requiring certain persons
 22 and bingo management companies to hold specified bingo
 23 occupational licenses; providing requirements and
 24 prohibitions relating to such licenses; requiring the
 25 division to adopt rules; authorizing the division to
 26 deny, declare a person ineligible for, or revoke bingo
 27 occupational licenses under certain circumstances;
 28 providing fingerprinting requirements for bingo
 29 occupational licenses; providing requirements for

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30 conducting bingo games; authorizing bingo operators to
 31 charge fees for players participating in bingo games;
 32 requiring that notice of such fees be posted in a
 33 conspicuous place on the licensed premises at all
 34 times; providing recordkeeping and reporting
 35 requirements for licensees conducting bingo games;
 36 prohibiting persons from operating or permitting the
 37 operation of certain devices; prohibiting persons
 38 under a specified age from holding specified bingo
 39 licenses or participating in certain bingo games or
 40 instant bingo; authorizing a bingo operator to refuse
 41 entry to certain persons or refuse to allow certain
 42 persons to play bingo under certain circumstances;
 43 requiring bingo operators to make specified
 44 contributions to nonprofit organizations of certain
 45 proceeds from bingo games and instant bingo; requiring
 46 bingo operators to report such contributions to the
 47 division; prohibiting a municipality, county, or other
 48 political subdivision from assessing or collecting
 49 certain taxes relating to bingo games and instant
 50 bingo; authorizing the division to suspend, revoke, or
 51 deny licenses or license renewals under certain
 52 circumstances; authorizing the division to suspend or
 53 revoke a pari-mutuel permit or license under certain
 54 circumstances; authorizing the division to impose
 55 administrative fines; providing criminal penalties;
 56 authorizing certain entities to apply for a temporary
 57 or permanent injunction under certain circumstances;
 58 amending s. 849.0931, F.S.; prohibiting the use of

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certain devices relating to bingo; authorizing hand-held or table-top bingo card minders to be used if certain requirements are met; creating s. 849.143, F.S.; specifying that certain activities relating to bingo games and instant bingo are not subject to certain gambling-related prohibitions; amending SB 4A to include the regulation of bingo games and instant bingo at licensed pari-mutuel facilities in a type two transfer occurring on a certain date; providing a contingent effective date.

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

Section 1. Subsection (1) of section 550.01215, Florida Statutes, is amended to read:

550.01215 License application; periods of operation; bond, conversion of permit.—

(1) Each permitholder shall annually, during the period between December 15 and January 4, file in writing with the division its application for a license to conduct performances during the next state fiscal year. Each application shall specify the number, dates, and starting times of all performances which the permitholder intends to conduct. It shall also specify which performances will be conducted as charity or scholarship performances. In addition, each application for a license shall include, for each permitholder which elects to operate a cardroom or conduct bingo games or instant bingo, the dates and periods of operation the permitholder intends to operate the cardroom or conduct bingo games or instant bingo or,

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for each thoroughbred permitholder which elects to receive or rebroadcast out-of-state races after 7 p.m., the dates for all performances which the permitholder intends to conduct. Permitholders shall be entitled to amend their applications through February 28.

Section 2. Subsection (14) is added to section 550.0251, Florida Statutes, to read:

550.0251 The powers and duties of the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.—The division shall administer this chapter and regulate the pari-mutuel industry under this chapter and the rules adopted pursuant thereto, and:

(14) (a) The division shall have the full authority and power to make, adopt, amend, or repeal rules relating to bingo games and instant bingo in pari-mutuel facilities, to enforce and to carry out the provisions of s. 849.089, and to regulate such bingo games and instant bingo in this state.

(b) The division shall have the authority to suspend a permitholder's permit or license, if such permitholder is conducting bingo games or instant bingo and such permitholder's bingo license has been suspended or revoked pursuant to s. 849.089.

Section 3. Paragraph (b) of subsection (14) of section 550.054, Florida Statutes, is amended to read:

550.054 Application for permit to conduct pari-mutuel wagering.—

(14)

(b) The division, upon application from the holder of a jai alai permit meeting all conditions of this section, shall

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convert the permit and shall issue to the permitholder a permit to conduct greyhound racing. A permitholder of a permit converted under this section shall be required to apply for and conduct a full schedule of live racing each fiscal year to be eligible for any tax credit provided by this chapter. The holder of a permit converted pursuant to this subsection or any holder of a permit to conduct greyhound racing located in a county in which it is the only permit issued pursuant to this section who operates at a leased facility pursuant to s. 550.475 may move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that county, provided the move does not cross the county boundary and such location is approved under the zoning regulations of the county or municipality in which the permit is located, and upon such relocation may use the permit for the conduct of pari-mutuel wagering, the conduct of bingo games or instant bingo, and the operation of a cardroom. The provisions of s. 550.6305(9)(d) and (f) shall apply to any permit converted under this subsection and shall continue to apply to any permit which was previously included under and subject to such provisions before a conversion pursuant to this section occurred.

Section 4. Section 849.089, Florida Statutes, is created to read:

849.089 Bingo games and instant bingo authorized in licensed pari-mutuel facilities.-

(1) LEGISLATIVE INTENT.-It is the intent of the Legislature to provide additional entertainment choices for the residents of and visitors to this state, promote tourism in this state, and

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provide contributions for nonprofit organizations through the authorization of bingo games and instant bingo at licensed pari-mutuel facilities in this state. To ensure public confidence in the integrity of bingo games and instant bingo, this section is designed to strictly regulate the facilities, persons, and procedures related to bingo games and instant bingo.

(2) DEFINITIONS.-As used in this section, the term:

(a) "Bingo card" has the same meaning as provided in s. 849.0931(1).

(b) "Bingo game" has the same meaning as provided in s. 849.0931(1).

(c) "Bingo operator" means a licensed pari-mutuel permitholder that holds a valid permit and operating license issued by the division pursuant to chapter 550 and that also holds a valid bingo license issued by the division pursuant to this section which authorizes such person to conduct bingo games and instant bingo on the permitholder's licensed premises.

(d) "Bingo management company" means any individual who is not an employee of a bingo operator, or any proprietorship, partnership, corporation, or other entity that enters into an agreement with a bingo operator to manage, operate, or otherwise control the daily conduct of bingo games or instant bingo on the bingo operator's licensed premises.

(e) "Deal" has the same meaning as provided in s. 849.0931(1).

(f) "Division" means the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation.

(g) "Electronic bingo card minder" means a card minding device, which may only be used as a bingo aid device in

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connection with a bingo game conducted outside of Broward County or Miami-Dade County at a pari-mutuel facility licensed as of January 1, 2021, and which is certified in advance by an independent testing laboratory approved by the division, or any successor agency, and meets each of the following requirements:

1. The device must aid a bingo game player by:
 - a. Storing in the memory of the device not more than three bingo faces of tangible bingo cards, as defined by s. 849.0931(1)(b) as of January 1, 2021, purchased by a player;
 - b. Comparing the numbers drawn and then individually entered into the device by the player to the bingo faces previously stored in the memory of the device; and
 - c. Identifying preannounced winning bingo patterns marked or covered on the stored bingo faces.
2. The device must not be capable of accepting or dispensing any coins, currency, or tokens.
3. The device must not be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.
4. The device must not be capable of displaying or representing the game result through any means other than highlighting the winning numbers marked or covered on the bingo card face or giving an audio alert that the player's card has a prize-winning pattern. No casino game graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, craps, roulette, or lotto, may be used.
5. The device must not be capable of determining the outcome of any game.

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6. Progressive prizes in excess of \$2,500 are prohibited.
7. Other than progressive prizes not to exceed \$2,500, no prize exceeding \$1,000 may be awarded.
8. No electronic bingo card minder may contain more than one player position for playing bingo.
9. No electronic bingo card minder may contain or be linked to more than one video display.
10. Prizes must be awarded based solely on the results of the bingo game. No additional element of chance may be used.
- (h) "Flare" has the same meaning as provided in s. 849.0931(1).
- (i) "Gross receipts" means the total amount of money received by a bingo operator from any person for participation in bingo games, including, but not limited to, participation fees authorized in subsection (8) or the sale of instant bingo tickets.
- (j) "Independent testing laboratory" means an independent laboratory:
 1. With demonstrated competence testing gaming machines and equipment;
 2. That is licensed by at least 10 other states; and
 3. That has not had its license suspended or revoked by any other state within the immediately preceding 10 years.
- (k) "Instant bingo" has the same meaning as provided in s. 849.0931(1).
- (l) "Net proceeds" means the total amount of gross receipts received by a bingo operator from conducting bingo games and instant bingo less direct operating expenses related to conducting such games, including labor costs, contributions to

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nonprofit organizations pursuant to paragraph (11)(a), and reasonable promotional costs, but excluding officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead and depreciation expenses not directly related to conducting bingo games or instant bingo.

(m) "Nonprofit organization" means an organization exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

(n) "Objects" has the same meaning as provided in s. 849.0931(1).

(o) "Rack" has the same meaning as provided in s. 849.0931(1).

(p) "Receptacle" has the same meaning as provided in s. 849.0931(1).

(q) "Session" has the same meaning as provided in s. 849.0931(1).

(3) BINGO GAMES AND INSTANT BINGO AUTHORIZED.—

(a) Notwithstanding any other provision of law, it is not a crime for a person to participate in bingo games or instant bingo on the licensed premises of a bingo operator if such games are conducted strictly in accordance with this section.

(b) Notwithstanding any other provision of law, the number of electronic bingo card minders in operation shall not exceed the maximum number authorized in the gaming compact ratified, approved, and described in s. 285.710(3).

(4) AUTHORITY OF DIVISION.—The division shall administer this section and regulate the conduct of bingo games and instant bingo under this section and the rules adopted pursuant thereto.

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The division may:

(a) Adopt rules to administer this act, including, but not limited to, the issuance of bingo and employee licenses for bingo activities, the conduct of bingo games and instant bingo, recordkeeping and reporting requirements, and required contributions from bingo proceeds to nonprofit organizations. Such rules may not conflict with, and must be applied, construed, and interpreted in a manner consistent with, a gaming compact ratified, approved, and described in s. 285.710(3).

(b) Conduct investigations and monitor the conduct of bingo games and instant bingo in pari-mutuel facilities.

(c) Review the books, accounts, and records of any current or former bingo operator.

(d) Suspend or revoke any license or permit, after a hearing, for any violation of this section or the administrative rules adopted pursuant thereto.

(e) Take testimony, issue summons and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(5) LICENSE REQUIRED; APPLICATION.—A person may not conduct bingo games or instant bingo at a pari-mutuel facility in this state unless such person holds a valid bingo license issued pursuant to this section.

(a) Only persons holding a valid bingo license issued by the division may conduct bingo games or instant bingo on the bingo operator's licensed premises. A bingo license may only be issued to a licensed pari-mutuel permitholder, and bingo games and instant bingo may only be conducted at the same licensed premises at which the permitholder is authorized under its valid

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291 pari-mutuel wagering permit to conduct pari-mutuel wagering
 292 activities.

293 (b) After the initial bingo license is granted, the
 294 application for the annual license renewal must be made in
 295 conjunction with the applicant's annual application for its
 296 pari-mutuel license. If a permitholder has conducted bingo games
 297 or instant bingo during any of the 3 previous fiscal years and
 298 fails to include a renewal request for bingo games or instant
 299 bingo in its annual application for license renewal, the
 300 permitholder may amend its annual application to include bingo
 301 games or instant bingo.

302 (c) Persons seeking a license or license renewal to conduct
 303 bingo games or instant bingo must apply on forms prescribed by
 304 the division. Applications for bingo licenses must contain all
 305 information the division, by rule, determines is required to
 306 ensure eligibility.

307 (6) BUSINESS AND EMPLOYEE OCCUPATIONAL LICENSE REQUIRED;
 308 APPLICATION.—

309 (a) A person employed or otherwise working at a pari-mutuel
 310 facility conducting bingo games or instant bingo as a bingo
 311 manager or caller or performing any other activity related to
 312 bingo games or instant bingo while the facility is conducting
 313 bingo games or instant bingo must hold a valid bingo employee
 314 occupational license issued by the division. Food service,
 315 maintenance, and security employees with a current pari-mutuel
 316 occupational license and a current background check are not
 317 required to have a bingo employee occupational license.

318 (b) A bingo management company must hold a valid bingo
 319 business occupational license issued by the division.

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320 (c) A licensed bingo operator may not employ or allow to
 321 work in a room or area set aside for bingo on the bingo
 322 operator's licensed premises any person who does not hold a
 323 valid occupational license. A licensed bingo operator may not
 324 contract or otherwise do business with a business required to
 325 hold a valid bingo business occupational license unless the
 326 business holds such license.

327 (d) The division shall establish by rule a schedule for the
 328 renewal of bingo occupational licenses. Bingo occupational
 329 licenses are not transferable.

330 (e) Persons seeking bingo occupational licenses or license
 331 renewals must apply on forms prescribed by the division.
 332 Applications for bingo occupational licenses must contain all
 333 information the division, by rule, determines is required to
 334 ensure eligibility.

335 (f) The division shall adopt rules relating to bingo
 336 occupational licenses. Section 550.105(4) through (8) and (10)
 337 relating to licensure also applies to bingo occupational
 338 licenses.

339 (g) The division may deny, declare ineligible for, or
 340 revoke any bingo occupational license if the applicant or holder
 341 thereof has been found guilty or had adjudication withheld in
 342 this state or any other state or under the laws of the United
 343 States of a felony or misdemeanor involving forgery, larceny,
 344 extortion, conspiracy to defraud, or filing false reports to a
 345 government agency or a racing or gaming commission or authority.

346 (h) Fingerprints for all bingo occupational license
 347 applications shall be taken in a manner approved by the division
 348 and shall be submitted to the Department of Law Enforcement and

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349 the Federal Bureau of Investigation for a criminal records check
 350 upon initial application and at least every 5 years thereafter.
 351 The division may require by rule an annual record check of all
 352 renewal applications for a bingo occupational license. The cost
 353 of processing fingerprints and conducting a record check shall
 354 be borne by the applicant.

355 (7) CONDITIONS FOR CONDUCTING BINGO GAMES AND INSTANT
 356 BINGO.—

357 (a) Bingo games and instant bingo may be conducted only at
 358 the licensed premises specified on the bingo license issued by
 359 the division, and such premises may only be the location at
 360 which the pari-mutuel permitholder is authorized to conduct
 361 pari-mutuel wagering activities pursuant to such permitholder's
 362 valid pari-mutuel permit or as otherwise authorized by law.

363 (b) A bingo operator may conduct bingo games and instant
 364 bingo at the pari-mutuel facility daily throughout the year.
 365 Bingo games and instant bingo may be conducted 24 hours per day.

366 (c) A bingo operator must employ a nonplaying caller for
 367 each bingo game at all times. Such callers may not have a
 368 participatory interest in any bingo game other than announcing
 369 the game and may not have an interest in the outcome of the
 370 game. The licensee providing such callers does not constitute
 371 the conducting of a banking game by the bingo operator.

372 (d) Each bingo operator shall conspicuously post upon the
 373 licensed premises a notice which contains a copy of the bingo
 374 license, any house rules regarding the conduct and play of bingo
 375 games or instant bingo, and all costs for players to
 376 participate.

377 (e) A bingo operator's premises are subject to inspection

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378 by the division or any law enforcement agency during the
 379 licensee's regular business hours. The inspection must
 380 specifically include the permitholder internal control
 381 procedures approved by the division.

382 (f) Each bingo game must be conducted in accordance with
 383 the following:

384 1. The objects, whether drawn or ejected, must be
 385 essentially equal in size, shape, weight, and balance and in all
 386 other characteristics that may control their selection from the
 387 receptacle. The caller must cancel any game if, during the
 388 course of a game, the mechanism used in the drawing or ejection
 389 of objects becomes jammed in such a manner as to interfere with
 390 the accurate determination of the next number to be announced or
 391 if the caller determines that more than one object is labeled
 392 with the same number or that there is a number to be drawn
 393 without a corresponding object. Any player in a game canceled
 394 pursuant to this subparagraph may play the next game free of
 395 charge;

396 2. Before commencement of any bingo session, a licensed
 397 employee shall require a verification of all objects to be
 398 placed in the receptacle and shall inspect the objects in the
 399 presence of a disinterested person to ensure that all objects
 400 are present and that there are no duplications or omissions of
 401 numbers on the objects. Any player is entitled to call for a
 402 verification of numbers before, during, or after a session;

403 3. The card or sheet on which the game is played must be
 404 part of a deck, group, or series, no two of which may be alike
 405 in any given game;

406 4. All numbers must be visibly displayed after being drawn

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and before being placed in the rack;

5. A bona fide bingo shall consist of a predesignated arrangement of numbers on a card or sheet which correspond with the numbers on the objects drawn from the receptacle and announced. Errors in numbers announced or misplaced in the rack may not be recognized as a bingo;

6. When a caller has started to vocally announce a number, the caller must complete the call. If any player has obtained a bingo on a previous number, such player must share the prize with the player who gained bingo on the last number called;

7. Numbers on the winning cards or sheets must be announced and verified in the presence of another player. Any player is entitled at the time the winner is determined to call for a verification of numbers drawn. The verification must be in the presence of the caller, the player determined to be the winner, the player calling for verification of the numbers drawn, and the bingo manager or an officer of the licensee;

8. Upon determining a winner, the caller must ask, "Are there any other winners?" If no one replies, the caller shall declare the game closed. No other player is entitled to share the prize unless she or he declared bingo before the declaration; and

9. Seats may not be held or reserved for players who are not present, and cards may not be set aside, held, or reserved from one session to another for any player.

(g)1. Instant bingo tickets must be sold at the price printed on the ticket or on the game flare by the manufacturer. Discounts may not be given for the purchase of multiple tickets, and tickets may not be given away free of charge.

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2. Each deal of instant bingo tickets must be accompanied by a flare, and the flare must be posted before the sale of any tickets in that deal.

3. Each instant bingo ticket in a deal must bear the same serial number, and there may not be more than one serial number in each deal. Serial numbers printed on a deal of instant bingo tickets may not be repeated by the manufacturer on the same form for a period of 3 years.

4. The serial number for each deal must be clearly and legibly placed on the outside of each deal's package, box, or other container.

5. Instant bingo tickets manufactured, sold, or distributed in this state must comply with the applicable standards on pull-tabs of the North American Gaming Regulators Association.

6. Except as provided under subparagraph 5., an instant bingo ticket manufactured, sold, or distributed in this state must:

a. Be manufactured so that it is not possible to identify whether it is a winning or losing instant bingo ticket until it has been opened by the player as intended;

b. Be manufactured using at least two-ply paper stock construction so that the instant bingo ticket is opaque;

c. Have the form number, the deal's serial number, and the name or logo of the manufacturer conspicuously printed on the face or cover of the instant bingo ticket; and

d. Have a form of winner protection that allows the organization to verify, after the instant bingo ticket has been played, that the winning instant bingo ticket presented for payment is an authentic winning instant bingo ticket for the

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465 deal in play. The manufacturer shall provide a written
 466 description of the winner protection with each deal of instant
 467 bingo tickets.

468 7. Each manufacturer and distributor that sells or
 469 distributes instant bingo tickets in this state to bingo
 470 operators or bingo management companies must prepare an invoice
 471 that contains the following information:

- 472 a. The date of sale;
- 473 b. The form number and serial number of each deal sold;
- 474 c. The number of instant bingo tickets in each deal sold;
- 475 d. The name of the distributor, bingo operator, or bingo
 476 management company to whom each deal is sold; and
- 477 e. The price of each deal sold.

478
 479 All information contained on an invoice must be maintained by
 480 the distributor and manufacturer for 3 years.

481 8. The invoice or a true and accurate copy thereof must be
 482 kept on the licensed premises where any deal of instant bingo
 483 tickets is stored or in play.

484 (8) FEES FOR PARTICIPATION.—The bingo operator may charge a
 485 fee for players to participate in bingo games. Such fee may be a
 486 flat fee or hourly rate or a fee per bingo card. Notice of the
 487 amount of the participation fee shall be posted in a conspicuous
 488 place on the licensed premises at all times.

489 (9) RECORDS AND REPORTS.—

490 (a) Each licensee conducting bingo games or instant bingo
 491 shall keep and maintain daily records of its bingo activities
 492 and shall maintain such records for at least 3 years. These
 493 records must include all financial transactions and contain

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494 sufficient detail to determine compliance with this section. All
 495 records must be available for audit and inspection by the
 496 division or law enforcement agencies during the licensee's
 497 regular business hours. The information required in such records
 498 shall be determined by division rule.

499 (b) Each licensee conducting bingo games or instant bingo
 500 shall file with the division a report containing the required
 501 records of such bingo activities. Such report must be filed
 502 monthly by licensees. The required reports must be submitted on
 503 forms prescribed by the division, are due at the same time the
 504 monthly pari-mutuel reports are due to the division, must
 505 contain any additional information deemed necessary by the
 506 division, and are public records once filed.

507 (10) PROHIBITED ACTIVITIES.—

508 (a) Except for electronic bingo card minders as defined in
 509 paragraph (2)(g) and card minders that meet the requirements
 510 under s. 849.0931(15), a person may not operate or permit the
 511 operation of a device that displays bingo cards or instant bingo
 512 tickets, or the results from the play of bingo or instant bingo,
 513 using a video or electromechanical format, including, but not
 514 limited to, any device that displays any aspect of the bingo
 515 game or instant bingo game using casino game graphics, themes,
 516 or titles, including, but not limited to, depictions of slot
 517 machine-style symbols, cards, craps, roulette, or lotto.
 518 Notwithstanding the foregoing, bingo games played using an
 519 electronic bingo card minder pursuant to this section do not
 520 violate the exclusivity provisions of the gaming compact
 521 ratified, approved, and described in s. 285.710(3).

522 (b) A person under 18 years of age may not hold a bingo

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operator or occupational license or participate in any bingo game or instant bingo conducted pursuant to this section.

(c) A bingo operator may refuse entry to or refuse to allow any person to play who is objectionable, undesirable, or disruptive, but such refusal may not be on the basis of race, creed, color, religion, gender, national origin, marital status, physical handicap, or, except as provided in paragraph (b), age.

(11) CONTRIBUTIONS TO NONPROFIT ORGANIZATIONS AND OTHER PAYMENTS.—

(a) As a condition of licensure, a bingo operator must contribute the entire net proceeds received from bingo games and instant bingo on at least 21 calendar days each year to one or more nonprofit organizations chosen by the bingo operator. A bingo operator shall report such contributions to the division in the format prescribed by the division, including, but not limited to, the amounts and dates of such contributions and the organizations to whom such contributions were made.

(b) Bingo games and instant bingo are deemed an accessory use to a licensed pari-mutuel operation and, except as provided in chapter 550, a municipality, county, or political subdivision may not assess or collect any license tax, sales tax, or excise tax on such bingo games or instant bingo.

(12) SUSPENSION, REVOCATION, OR DENIAL OF LICENSE; FINE.—

(a) The division may deny a license or the renewal thereof or may suspend or revoke a license if the applicant or licensee has violated or failed to comply with this section or any rule adopted pursuant thereto; knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rule adopted pursuant thereto; obtained a license

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or permit by fraud, misrepresentation, or concealment; or if the holder of such license is no longer eligible for a license under this section.

(b) If a pari-mutuel permitholder's pari-mutuel permit or license is suspended or revoked by the division pursuant to chapter 550, the division may, but is not required to, suspend or revoke such permitholder's bingo license. If a bingo operator's license is suspended or revoked pursuant to this section, the division may, but is not required to, suspend or revoke such licensee's pari-mutuel permit or license.

(c) Notwithstanding any other provision of this section, the division may impose an administrative fine, not to exceed \$1,000 per violation, against any person who has violated or failed to comply with this section or any rule adopted pursuant thereto.

(13) CRIMINAL PENALTY; INJUNCTION.—

(a)1. Any person who conducts bingo games or instant bingo on the licensed premises of a pari-mutuel facility without a valid license issued pursuant to this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Except as provided in subparagraph 3., any licensee or permitholder who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any licensee or permitholder who commits a second or subsequent violation of the same paragraph or subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any organization or other person who willfully and

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581 knowingly violates paragraph (10) (a) commits a misdemeanor of
 582 the first degree, punishable as provided in s. 775.082 or s.
 583 775.083. For a second or subsequent offense, the organization or
 584 other person commits a felony of the third degree, punishable as
 585 provided in s. 775.082, s. 775.083, or s. 775.084.

586 (b) The division, any state attorney, the statewide
 587 prosecutor, or the Attorney General may apply for a temporary or
 588 permanent injunction restraining further violation of this
 589 section, and such injunction shall issue without bond.

590 Section 5. Present subsection (14) of section 849.0931,
 591 Florida Statutes, is redesignated as subsection (16), and new
 592 subsections (14) and (15) are added to that section, to read:

593 849.0931 Bingo authorized; conditions for conduct;
 594 permitted uses of proceeds; limitations.—

595 (14) Except for card minders authorized under subsection
 596 (15), an organization or person may not operate or permit the
 597 operation of a device that displays bingo cards or instant bingo
 598 tickets, or the results from the play of bingo or instant bingo,
 599 using a video or electromechanical format, including, but not
 600 limited to, any device that displays any aspect of the bingo or
 601 instant bingo game using casino game graphics, themes, or
 602 titles, including, but not limited to, depictions of slot
 603 machine-style symbols, cards, craps, roulette, or lotto.

604 (15) Hand-held or table-top bingo card minders may be used
 605 in connection with bingo games as defined in this section. Such
 606 card minders:

607 (a) Must require players to manually input each individual
 608 number or symbol announced by a live caller;

609 (b) May not display or represent the game result through

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610 any means, including, but not limited to, video or mechanical
 611 reels or other slot machine or casino game themes; and

612 (c) May highlight the winning numbers or symbols marked or
 613 covered on the flat piece of paper or thin pasteboard bingo
 614 card, or give an audio alert that the player's card has a prize-
 615 winning pattern.

616 Section 6. Section 849.143, Florida Statutes, is created to
 617 read:

618 849.143 Bingo games and instant bingo at pari-mutuel
 619 facilities exemption.—Sections 849.01, 849.08, 849.09, 849.11,
 620 849.14, and 849.25 do not apply to participation in or the
 621 conduct of bingo games and instant bingo conducted pursuant to
 622 s. 849.089.

623 Section 7. If SB 4A, 2021 Special Session A, becomes a law,
 624 subsection (1) of section 11 of SB 4A, 2021 Special Session A,
 625 is amended to read:

626 (1) Effective July 1, 2022, all powers, duties, functions,
 627 records, offices, personnel, associated administrative support
 628 positions, property, pending issues, existing contracts,
 629 administrative authority, administrative rules, and unexpended
 630 balances of appropriations, allocations, and other funds in the
 631 Department of Business and Professional Regulation related to
 632 the oversight responsibilities by the state compliance agency
 633 for authorized gaming compacts under s. 285.710, Florida
 634 Statutes, the regulation of pari-mutuel wagering under chapter
 635 550, Florida Statutes, the regulation of slot machines and slot
 636 machine gaming under chapter 551, Florida Statutes, the
 637 regulation of bingo games and instant bingo played at licensed
 638 pari-mutuel facilities under s. 849.089, Florida Statutes, and

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639 the regulation of cardrooms under s. 849.086, Florida Statutes,
640 are transferred by a type two transfer, as defined in s.
641 20.06(2), Florida Statutes, to the Florida Gaming Control
642 Commission within the Department of Legal Affairs, Office of the
643 Attorney General.

644 Section 8. This act shall take effect on the same date that
645 SB 2A or similar legislation takes effect, if such legislation
646 is adopted in the same legislative session or an extension
647 thereof and becomes a law.

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 Committee on Appropriations

BILL: SB 12A

INTRODUCER: Senator Hutson

SUBJECT: Taxes/Pari-mutuel Facility Bingo Games and Instant Bingo

DATE: May 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer/Imhof	Sadberry	AP	Pre-meeting
2.				
3.				

I. Summary:

SB 12A imposes a 10 percent gross receipts tax to be paid to the Division of Pari-Mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) by pari-mutuel permitholders that are licensed to conduct bingo games or instant bingo at licensed pari-mutuel facilities in the state, under specific and limited conditions. Currently, the conduct of bingo activities in the state is limited to certain charitable, nonprofit, and veterans' organizations and residents in community associations and residential parks, under specific and limited conditions set forth in s. 849.0931, F.S. (charitable bingo). Under the bill, only pari-mutuel permitholders licensed as bingo operators must pay this tax, which is based on gross receipts related to bingo games and instant bingo, and such tax does not apply to the groups conducting charitable bingo in compliance with Florida law.

SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo), is a linked bill that addresses the conduct of bingo games and instant bingo, as well as prohibited gambling activities in the state.

See Section V, Fiscal Impact Statement.

The bill is effective on the same date that SB 10A (Pari-mutuel Facility Bingo Games Instant Bingo) or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴

However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷
- Cardrooms⁸ at certain pari-mutuel facilities;⁹
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;¹⁰
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S., the Family Amusement Games Act;¹¹ and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
 - Penny-ante games;¹²
 - Bingo;¹³
 - Charitable drawings;¹⁴
 - Game promotions (sweepstakes);¹⁵ and
 - Bowling tournaments.¹⁶

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. See s. 550.002(22), F.S.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. See s. 849.086(2)(c), F.S., which 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 charged a fee for participation by the operator of such facility.”

⁹ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited Apr. 7, 2021).

¹⁰ Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹¹ See s. 546.10, F.S.

¹² See s. 849.085, F.S.

¹³ See s. 849.0931, F.S.

¹⁴ See s. 849.0935, F.S.

¹⁵ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁶ See s. 849.141, F.S.

Bingo Games and Instant Bingo by Charitable Organizations

The play of bingo games and instant bingo under current law (charitable bingo) must meet numerous requirements and is restricted as set forth in s. 849.0931, F.S., which specifies in subsection (12) numerous requirements for the conduct of charitable bingo. Pursuant to s. 849.0931(1)(c) and (4), F.S., organizations that are authorized to conduct bingo games include:

- Charitable, nonprofit, and veterans' organizations, which are defined as tax-exempt under 501(c) of the Internal Revenue Code of 1954, or section 528 of the Internal Revenue Code of 1986, and have been in existence and active for at least three years.
- Condominium associations, cooperative associations, homeowners' associations as defined in s. 720.301, F.S., mobile home owners' associations, and a group of residents of a mobile home park or recreational vehicle park, as defined in ch. 723 and ch. 513, F.S.

Any organization or other person who willfully and knowingly violates s. 849.0931, F.S., commits a misdemeanor of the first degree, punishable by a term of imprisonment not to exceed one year and a fine not to exceed \$1,000.¹⁷

Bingo Games and Instant Bingo Conducted at Pari-mutuel Facilities

The conduct of bingo games and instant bingo at licensed pari-mutuel facilities is not authorized under current law, but is proposed to be authorized as described in s. 849.089, F.S., created in the linked bill, SB 10A, relating to Pari-mutuel Facility Bingo Games and Instant Bingo.

III. Effect of Proposed Changes:

The bill imposes a 10 percent gross receipts tax to be paid to the division by pari-mutuel permitholders that conduct bingo games or instant bingo at licensed pari-mutuel facilities in the state, under specific and limited conditions, as described in the linked bill, SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo).

Under the bill, violators are subject to a civil penalty of up to \$1,000 for each day a required tax payment is not remitted. If a penalty is not paid, the division may suspend or revoke the bingo operator's license, or deny issuance of any further license to the bingo operator.

The bill is effective on the same date that SB 10A (Pari-mutuel Facility Bingo Games Instant Bingo) or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁷ See s. 849.0931(14), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII of the State Constitution requires a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”¹⁸

Section 19 of Article VII of the State Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill imposes a 10 percent gross receipts tax to be paid by pari-mutuel permitholders that conduct bingo games or instant bingo at licensed pari-mutuel facilities in the state.

B. Private Sector Impact:

Licensed pari-mutuel permitholders that conduct bingo games and instant bingo (bingo operators) will be required to pay tax to the state equal to 10 percent of the bingo operator’s net monthly gross receipts from conducting bingo games and instant bingo as described in the bill.

C. Government Sector Impact:

The creation of an additional licensing and regulatory structure for the conduct of bingo games and instant bingo by pari-mutuel permitholders who are licensed as bingo operators may result in a fiscal impact to the DBPR.

VI. Technical Deficiencies:

None.

¹⁸ FLA. CONST. art. VII, s. 19(d)(1).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends subsection (1), paragraph (j) of subsection (2), and subsection (11) of section 849.089 of the Florida Statutes, which is created by the linked bill, SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo).

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.

By Senator Hutson

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A bill to be entitled

An act relating to taxes; amending s. 849.089, F.S.; revising legislative intent; revising the definition of the term "net proceeds"; requiring bingo operators to pay a specified tax relating to monthly gross receipts; providing requirements for the tax payments; requiring bingo operators to file monthly reports containing specified information; providing civil and administrative penalties for failing to make the required tax payments; providing requirements for certain funds deposited into the Pari-mutuel Wagering Trust Fund; providing a contingent effective date.

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

Section 1. Subsection (1), paragraph (1) of subsection (2), and subsection (11) of section 849.089, Florida Statutes, as created by SB 10A, are amended to read:

849.089 Bingo games and instant bingo authorized in licensed pari-mutuel facilities.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to provide additional entertainment choices for the residents of and visitors to this state, promote tourism in this state, provide additional state revenues, and provide contributions for nonprofit organizations through the authorization of bingo games and instant bingo at licensed pari-mutuel facilities in this state. To ensure public confidence in the integrity of bingo games and instant bingo, this section is designed to strictly regulate the facilities, persons, and procedures related to

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bingo games and instant bingo.

(2) DEFINITIONS.—As used in this section, the term:

(1) "Net proceeds" means the total amount of gross receipts received by a bingo operator from conducting bingo games and instant bingo less direct operating expenses related to conducting such games, including labor costs, gross receipts taxes imposed by this section on bingo activities, contributions to nonprofit organizations pursuant to paragraph (11)(a), and reasonable promotional costs, but excluding officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead and depreciation expenses not directly related to conducting bingo games or instant bingo.

(11) GROSS RECEIPTS TAX; CONTRIBUTIONS TO NONPROFIT ORGANIZATIONS AND OTHER PAYMENTS.—

(a) As a condition of licensure, a bingo operator must contribute the entire net proceeds received from bingo games and instant bingo on at least 21 calendar days each year to one or more nonprofit organizations chosen by the bingo operator. A bingo operator shall report such contributions to the division in the format prescribed by the division, including, but not limited to, the amounts and dates of such contributions and the organizations to whom such contributions were made.

(b) Each bingo operator shall pay a tax to the state of 10 percent of the bingo operator's monthly gross receipts.

(c) Each bingo operator shall pay the gross receipts tax imposed by this subsection to the division. The division shall deposit the sums of such taxes with the Chief Financial Officer, one-half being credited to the Pari-mutuel Wagering Trust Fund

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59 and one-half being credited to the General Revenue Fund. Such
 60 payments shall be remitted to the division on the 5th day of
 61 each calendar month for taxes imposed for the preceding month's
 62 bingo activities. Bingo operators shall file a report under oath
 63 by the 5th day of each calendar month for all taxes remitted
 64 during the preceding calendar month. Such report must, under
 65 oath, indicate the total of all admissions, the bingo activities
 66 for the preceding calendar month, and any other information as
 67 may be required by the division.

68 (d) A licensee who fails to make the payments required
 69 under paragraph (b) violates this section and is subject to a
 70 civil penalty of up to \$1,000 for each day the tax payment is
 71 not remitted. All penalties imposed and collected must be
 72 deposited into the General Revenue Fund. If a licensee fails to
 73 pay penalties imposed by order of the division under this
 74 paragraph, the division may suspend or revoke the bingo
 75 operator's license or deny issuance of any further license to
 76 the bingo operator.

77 (e) Bingo games and instant bingo are deemed an accessory
 78 use to a licensed pari-mutuel operation and, except as provided
 79 in chapter 550, a municipality, county, or political subdivision
 80 may not assess or collect any license tax, sales tax, or excise
 81 tax on such bingo games or instant bingo.

82 (f) All moneys deposited into the Pari-mutuel Wagering
 83 Trust Fund pursuant to this section shall be used and
 84 distributed in the manner specified in s. 550.135(1) and (2).
 85 However, bingo tax revenues must be kept separate from pari-
 86 mutuel tax revenues and may not be used for making the
 87 disbursement to counties provided in former s. 550.135(1).

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88 Section 2. This act shall take effect on the same date that
 89 SB 10A or similar legislation takes effect, if such legislation
 90 is adopted in the same legislative session or an extension
 91 thereof and becomes a law.

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 Committee on Appropriations

BILL: SB 14A

INTRODUCER: Senator Hutson

SUBJECT: Fees/Pari-mutuel Facility Bingo Games and Instant Bingo

DATE: May 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer/Imhof	Sadberry	AP	Pre-meeting
2.				
3.				

I. Summary:

SB 14A imposes an annual bingo license fee of \$500 to be paid by each pari-mutuel permitholder that is licensed to conduct bingo games or instant bingo at licensed pari-mutuel facilities in the state to the Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation. Currently, the conduct of bingo activities in the state is limited to certain charitable, nonprofit, and veterans' organizations and residents in community associations and residential parks, under specific and limited conditions set forth in s. 849.0931, F.S. (charitable bingo). Under the bill, only pari-mutuel permitholders licensed to operate bingo are liable for payment of an annual bingo license fee, which does not apply to groups conducting charitable bingo in compliance with Florida law.

SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo) is a linked bill that authorizes the conduct of bingo games and instant bingo.

See Section V, Fiscal Impact Statement.

The bill is effective on the same date that SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo) or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴

However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷
- Cardrooms⁸ at certain pari-mutuel facilities;⁹
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;¹⁰
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S., the Family Amusement Games Act;¹¹ and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
 - Penny-ante games;¹²
 - Bingo;¹³
 - Charitable drawings;¹⁴
 - Game promotions (sweepstakes);¹⁵ and
 - Bowling tournaments.¹⁶

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. See s. 550.002(22), F.S.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. See s. 849.086(2)(c), F.S., which 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 charged a fee for participation by the operator of such facility.”

⁹ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited Apr. 7, 2021).

¹⁰ Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹¹ See s. 546.10, F.S.

¹² See s. 849.085, F.S.

¹³ See s. 849.0931, F.S.

¹⁴ See s. 849.0935, F.S.

¹⁵ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁶ See s. 849.141, F.S.

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁷

Bingo Games and Instant Bingo by Charitable Organizations

The play of bingo games and instant bingo under current law (charitable bingo) must meet numerous requirements and is restricted as set forth in s. 849.0931, F.S. Section 849.0931(12), F.S., specifies numerous requirements for the conduct of charitable bingo. Pursuant to s. 849.0931(1)(c) and (4), F.S., organizations that are authorized to conduct bingo games include:

- Charitable, nonprofit, and veterans' organizations, which are defined as tax-exempt under 501(c) of the Internal Revenue Code of 1954, or section 528 of the Internal Revenue Code of 1986, and have been in existence and active for at least three years.
- Condominium associations, cooperative associations, homeowners' associations as defined in s. 720.301, F.S., mobile home owners' associations, and a group of residents of a mobile home park or recreational vehicle park, as defined in ch. 723 and ch. 513, F.S.

Any organization or other person who willfully and knowingly violates s. 849.0931, F.S., commits a misdemeanor of the first degree, punishable by a term of imprisonment not to exceed one year and a fine not to exceed \$1,000.¹⁸

Bingo Games and Instant Bingo Conducted at Pari-mutuel Facilities

The conduct of bingo games and instant bingo at licensed pari-mutuel facilities is not authorized under current law, but is proposed to be authorized as described in s. 849.089, F.S., created in the linked bill, SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo).

III. Effect of Proposed Changes:

The bill imposes an annual bingo license fee of \$500 to be paid to the division by each pari-mutuel permitholder that is licensed to conduct bingo games or instant bingo at licensed pari-mutuel facilities in the state, under specific and limited conditions, as described in the linked bill, SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo).

The bill provides that a bingo employee occupational license fee issued by the division may not exceed \$50 for any 12-month period, and a bingo business occupational license fee may not exceed \$250 for any 12-month period.

Under the bill, all license fees must be deposited into the division's Pari-mutuel Wagering Trust Fund.

¹⁷ 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).

¹⁸ See s. 849.0931(14), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII of the State Constitution requires a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”¹⁹

Section 19 of Article VII of the State Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill imposes an annual bingo license fee of \$500 to be paid to the division by each pari-mutuel permitholder that is licensed to conduct bingo games or instant bingo at licensed pari-mutuel facilities in the state. For occupational licensing, the bill provides that a bingo employee occupational license fee issued by the division may not exceed \$50 for any 12-month period, and a bingo business occupational license fee may not exceed \$250 for any 12-month period.

B. Private Sector Impact:

Licensed pari-mutuel permitholders that conduct bingo games and instant bingo (bingo operators) will be required to pay an annual bingo license fee of \$500 to the division. For occupational licensing, the bill provides that a bingo employee occupational license fee

¹⁹ FLA. CONST. art. VII, s. 19(d)(1).

issued by the division may not exceed \$50 for any 12-month period, and a bingo business occupational license fee may not exceed \$250 for any 12-month period.

C. Government Sector Impact:

The creation of an additional licensing and regulatory structure for the conduct of bingo games and instant bingo by pari-mutuel permit holders who are licensed as bingo operators, and for occupational licensing of bingo employees and bingo businesses may result in a fiscal impact to the Department of Business and Professional Regulation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 849.089 of the Florida Statutes, which is created by the linked bill, SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo), by amending paragraph (j) of subsection (2), paragraph (a) of subsection (4), and subsections (5) and (6), and adding paragraph (f) to subsection (4).

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.

By Senator Hutson

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1 A bill to be entitled
 2 An act relating to fees; amending s. 849.089, F.S.;
 3 revising the definition of the term "net proceeds";
 4 revising the Division of Pari-mutuel Wagering's
 5 authorizations relating to bingo games and instant
 6 bingo to include authorizations relating to fees;
 7 establishing an annual fee for a bingo license;
 8 setting limits on the amount that may be charged for
 9 bingo employee occupational license fees and bingo
 10 business occupational license fees; requiring such
 11 fees to be deposited into the Pari-mutuel Wagering
 12 Trust Fund; providing a contingent effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Paragraph (1) of subsection (2), paragraph (a)
 17 of subsection (4), and subsections (5) and (6) of section
 18 849.089, Florida Statutes, as created by SB 10A, are amended,
 19 and paragraph (f) is added to subsection (4) of that section, to
 20 read:
 21 849.089 Bingo games and instant bingo authorized in
 22 licensed pari-mutuel facilities.—
 23 (2) DEFINITIONS.—As used in this section, the term:
 24 (1) "Net proceeds" means the total amount of gross receipts
 25 received by a bingo operator from conducting bingo games and
 26 instant bingo less direct operating expenses related to
 27 conducting such games, including labor costs, annual bingo
 28 license fees imposed by this section, contributions to nonprofit
 29 organizations pursuant to paragraph (11)(a), and reasonable

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30 promotional costs, but excluding officer and director
 31 compensation, interest on capital debt, legal fees, real estate
 32 taxes, bad debts, contributions or donations, or overhead and
 33 depreciation expenses not directly related to conducting bingo
 34 games or instant bingo.
 35 (4) AUTHORITY OF DIVISION.—The division shall administer
 36 this section and regulate the conduct of bingo games and instant
 37 bingo under this section and the rules adopted pursuant thereto.
 38 The division may:
 39 (a) Adopt rules to administer this act, including, but not
 40 limited to, the issuance of bingo and employee licenses for
 41 bingo activities, the conduct of bingo games and instant bingo,
 42 recordkeeping and reporting requirements, and required
 43 contributions from bingo proceeds to nonprofit organizations,
 44 and the collection of all fees imposed by this section. Such
 45 rules may not conflict with, and must be applied, construed, and
 46 interpreted in a manner consistent with, a gaming compact
 47 ratified, approved, and described in s. 285.710(3).
 48 (f) Monitor and ensure the proper collection of fees
 49 imposed by this section.
 50 (5) LICENSE REQUIRED; APPLICATION; FEES.— A person may not
 51 conduct bingo games or instant bingo at a pari-mutuel facility
 52 in this state unless such person holds a valid bingo license
 53 issued pursuant to this section.
 54 (a) Only persons holding a valid bingo license issued by
 55 the division may conduct bingo games or instant bingo on the
 56 bingo operator's licensed premises. A bingo license may only be
 57 issued to a licensed pari-mutuel permitholder, and bingo games
 58 and instant bingo may only be conducted at the same licensed

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premises at which the permitholder is authorized under its valid pari-mutuel wagering permit to conduct pari-mutuel wagering activities.

(b) After the initial bingo license is granted, the application for the annual license renewal must be made in conjunction with the applicant's annual application for its pari-mutuel license. If a permitholder has conducted bingo games or instant bingo during any of the 3 previous fiscal years and fails to include a renewal request for bingo games or instant bingo in its annual application for license renewal, the permitholder may amend its annual application to include bingo games or instant bingo.

(c) Persons seeking a license or license renewal to conduct bingo games or instant bingo must apply on forms prescribed by the division. Applications for bingo licenses must contain all information the division, by rule, determines is required to ensure eligibility.

(d) The annual bingo license fee for each facility is \$500. The license fee must be deposited into the division's Pari-mutuel Wagering Trust Fund.

(6) BUSINESS AND EMPLOYEE OCCUPATIONAL LICENSE REQUIRED; APPLICATION; FEES.-

(a) A person employed or otherwise working at a pari-mutuel facility conducting bingo games or instant bingo as a bingo manager or caller or performing any other activity related to bingo games or instant bingo while the facility is conducting bingo games or instant bingo must hold a valid bingo employee occupational license issued by the division. Food service, maintenance, and security employees with a current pari-mutuel

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occupational license and a current background check are not required to have a bingo employee occupational license.

(b) A bingo management company must hold a valid bingo business occupational license issued by the division.

(c) A licensed bingo operator may not employ or allow to work in a room or area set aside for bingo on the bingo operator's licensed premises any person who does not hold a valid occupational license. A licensed bingo operator may not contract or otherwise do business with a business required to hold a valid bingo business occupational license unless the business holds such license.

(d) The division shall establish by rule a schedule for the renewal of bingo occupational licenses. Bingo occupational licenses are not transferable.

(e) Persons seeking bingo occupational licenses or license renewals must apply on forms prescribed by the division. Applications for bingo occupational licenses must contain all information the division, by rule, determines is required to ensure eligibility.

(f) The division shall adopt rules relating to bingo occupational licenses. Section 550.105(4) through (8) and (10) relating to licensure also applies to bingo occupational licenses.

(g) The division may deny, declare ineligible for, or revoke any bingo occupational license if the applicant or holder thereof has been found guilty or had adjudication withheld in this state or any other state or under the laws of the United States of a felony or misdemeanor involving forgery, larceny, extortion, conspiracy to defraud, or filing false reports to a

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government agency or a racing or gaming commission or authority.

(h) Fingerprints for all bingo occupational license applications shall be taken in a manner approved by the division and shall be submitted to the Department of Law Enforcement and the Federal Bureau of Investigation for a criminal records check upon initial application and at least every 5 years thereafter. The division may require by rule an annual record check of all renewal applications for a bingo occupational license. The cost of processing fingerprints and conducting a record check shall be borne by the applicant.

(i) The bingo employee occupational license fee may not exceed \$50 for any 12-month period. The bingo business occupational license fee may not exceed \$250 for any 12-month period. Such license fees must be deposited into the division's Pari-mutuel Wagering Trust Fund.

Section 2. This act shall take effect on the same date that SB 10A or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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 Committee on Appropriations

BILL: SB 16A

INTRODUCER: Senator Hutson

SUBJECT: Fantasy Sports Contests

DATE: May 14, 2021

REVISED: 5/17/21

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer/Imhof	Sadberry	AP	Pre-meeting
2.				
3.				

I. Summary:

SB 16A creates the Fantasy Contest Amusement Act, which authorizes the offering of fantasy sports contests by contest operators, and provides fantasy contests, as defined in the bill, involve the skill of contest participants.

See Section V, Fiscal Impact Statement.

Except as otherwise expressly provided in the bill, the bill takes effect on the same date that SB 2A (Implementation of the 2021 Gaming Compact) or similar legislation is adopted in the same legislative session and becomes a law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶

¹ *See* s. 849.08, F.S.

² *See* s. 849.01, F.S.

³ *See* s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

⁶ *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.

- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷ and
- Cardrooms⁸ at licensed pari-mutuel facilities.⁹

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁰

The 1968 State Constitution states that “[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .” are prohibited.¹¹ A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.¹²

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,¹³ bingo,¹⁴ charitable drawings,¹⁵ game promotions (sweepstakes),¹⁶ and bowling tournaments.¹⁷ The Family Amusement Games Act was enacted in 2015 and authorizes skill-based amusement games and machines at specified locations.¹⁸

Fantasy Sports Contests

The operation of fantasy sports activities in Florida has recently received significant publicity, much like the operation of internet cafes in recent years. Many states are now evaluating the

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. See s. 849.086(2)(c), F.S., which 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 charged a fee for participation by the operator of such facility.”

⁹ The Department of Business and Professional Regulation (DBPR) issued licenses to permitholders with 2020-2021 Operating Licenses to operate 27 cardrooms. See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited May 11, 2021).

¹⁰ 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).

¹¹ The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

¹² The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹³ See s. 849.085, F.S.

¹⁴ See s. 849.0931, F.S.

¹⁵ See s. 849.0935, F.S.

¹⁶ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁷ See s. 849.141, F.S.

¹⁸ See s. 546.10, F.S.

status of fantasy gaming activities in their jurisdictions,¹⁹ as there are millions of participants.²⁰ A fantasy game typically has multiple players who select and manage imaginary teams whose players are actual professional sports players. Fantasy game players compete against one another in various formats, including weekly leagues among friends and colleagues, season-long leagues, and on-line contests (daily and weekly) entered by using the Internet through personal computers or mobile telephones and other communications devices. There are various financial arrangements among players and game operators.

Florida law does not specifically address fantasy contests. Section 849.14, F.S.,²¹ provides that a person who wagers any “thing of value” upon the result of a contest of skill or endurance of human or beast, or who receives any money wagered, or who knowingly becomes the custodian of money or other thing of value that is wagered, is guilty of a second degree misdemeanor.²²

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)²³ was signed into law by President George W. Bush on October 13, 2006.²⁴ Under this act, internet gambling is not determined to be legal in a state, nor illegal. Instead, UIGEA targets financial institutions in an attempt to prevent the flow of money from an individual to an internet gaming company. Congress found that enforcement of gambling laws through new mechanisms “are necessary because traditional law enforcement mechanisms are often inadequate for enforcing gambling prohibitions or regulations on the Internet, especially where such gambling crosses state or national borders.”²⁵ UIGEA expressly states that none of its provisions “shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.”²⁶

“Unlawful internet gambling” prohibited by UIGEA includes the placement, receipt, or transmission of certain bets or wagers.²⁷ However, the definition of the term “bet or wager” specifically excludes any fantasy game or contest in which a fantasy team is not based on the current membership of a professional or amateur sports team, and:

- All prizes and awards are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of fees by the participants;

¹⁹ See Marc Edelman, *A Short Treatise on Fantasy Sports and the Law: How America Regulates its New National Pastime*, Journal of Sports & Entertainment Law, Harvard Law School Vol. 3 (Jan. 2012) available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907272 (last visited May 11, 2021).

²⁰ According to the Fantasy Sports Trade Association, which states it represents the interests of 57 million fantasy sports players, fantasy sports leagues were originally referred to as “roisserie leagues” with the development of Rotisserie League Baseball in 1980, by magazine writer/editor Daniel Okrent, who met and played it with friends at a New York City restaurant La Rotisserie Francaise. See <https://thefsga.org/history/> (last visited May 11, 2021).

²¹ See Fla. AGO 91-03 (Jan. 8, 1991) available at <http://myfloridalegal.com/. . . 91-03> (last visited May 11, 2021)

²² A conviction for a second degree misdemeanor may subject the violator to a definite term of imprisonment not exceeding 60 days, and a fine not exceeding \$500. See ss. 775.082 and 775.083, F.S.

²³ 31 U.S.C. ss. 5361-5366.

²⁴ 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.”

²⁵ 31 U.S.C. s. 5361(a)(4).

²⁶ 31 U.S.C. s. 5361(b).

²⁷ 31 U.S.C. s. 5362(10).

- Prize amounts are not based on the number of participants or the amount of entry fees;
- Winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals or athletes in multiple “real-world sporting or other events;” and
- No winning outcome is based:
 - On the score, point-spread, or any performance or performances of any single “real-world” team or combination of teams; or
 - Solely on any single performance of an individual athlete in any single “real-world sporting or other event.”²⁸

While UIGEA excludes bets or wagers of participants in certain fantasy sports games and contests,²⁹ it does not, however, authorize fantasy sports contests and activities in Florida.

Regulation of Pari-mutuel Wagering and Associated Licenses

The Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) regulates pari-mutuel wagering. 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.

III. Effect of Proposed Changes:

Section 1 creates the short title the “Fantasy Sports Contest Amusement Act (act)” for ss. 546.11 through 546.18, F.S. (Sections 1 through 8).

Section 2 creates s. 542.12, F.S., to state the legislative purpose and intent for the act, which is to “ensure public confidence in the integrity of fantasy sports contests and contest operators” through the regulation of contest operators and participants and the enactment of consumer protections related to fantasy sports contests. The bill includes a legislative finding that fantasy sports contests, as defined in the act, involve the skill of contest participants.

Section 3 creates s. 546.13, F.S., to provide definitions for fantasy sports contests and contest operators, and the requirements for such contests to comply with the act. A “fantasy sports contest” is a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization, under the following conditions:

- Contest operators and their employees and agents may not be participants in a contest;
- Prizes and awards must be established and disclosed before a contest and be unrelated to the number of participants in the contest or the amount of fees paid by participants;
- Winning outcomes must reflect knowledge and skill of participants and be determined predominantly by statistical results of performances of individuals, including athletes in sporting events; and

²⁸ See 31 U.S.C. s. 5362(1)(E)(ix).

²⁹ *Id.*

- Winning outcomes may not be based on the score, point spread, the performance of any single team or combination of teams; solely on any single performance of an individual athlete or player in a single event; on pari-mutuel events; on poker or other card games; or on performances of those participating in collegiate, high school, or youth sporting events; and
- Casino themes such as slot machine symbols, cards, craps, roulette, or lotto, may not be displayed or depicted.

The bill authorizes fantasy sports contests in which participants, who must be 21 years of age or older, pay an entry fee to a person or entity that offers such contests for a cash prize to members of the public, defined as a “contest operator;” however, the term does not include a noncommercial operator in Florida. The term “noncommercial operator” means an individual who organizes and conducts fantasy sports contests for participants 21 years of age or older who pay an entry fee for the contest. A noncommercial contest operator must pay all entry fees to participants as prizes, and may not pay fantasy sports contest prize monies exceeding \$1,500 per season or \$10,000 annually.

Section 4 creates s. 546.14, F.S., to require the division to enforce and administer the act. The division may:

- Conduct investigations and monitor the operation and play of fantasy sports contests;
- Review the books, accounts, and records of current and former contest operators;
- Deny, suspend, or revoke licenses for any violation of state law or rule;
- Take testimony, issue witness summonses and subpoenas for matters in its jurisdiction;
- Monitor and ensure the proper collection and safeguarding of entry fees and the payment of contest prizes in accordance with the consumer protection procedures enacted pursuant to the act;
- Investigate any licensed or unlicensed persons or entities when they are:
 - Advertising as offering or providing or are engaged in conducting a fantasy sports contest which requires licensure under the act; or
 - Engaged in activities which do not comply with or are prohibited by the act.
- Issue orders to licensed or unlicensed persons or entities, or to contest operators or noncommercial contest operators, to stop engaging in activities that require licensure or are prohibited by the act, seek an injunction, or take other appropriate action to enforce the requirements of the act; and
- Adopt rules to implement and administer the act, which may not conflict with, and must be applied, construed, and interpreted in a manner consistent with the 2021 Gaming Compact.

Section 5 creates s. 546.15, F.S., to require licensure of contest operators by the division to conduct fantasy sports contests in Florida. Applications for licensure must include:

- The full name of the applicant; for a corporate applicant, the name of the state of incorporation, the names and addresses of the officers, directors, and shareholders who hold 15 percent or more equity in the corporation must be provided, and for an applicant that is another type of business entity, the names and addresses of each principal, partner, or shareholder who holds 15 percent or more equity in the entity;
- The names and addresses of the ultimate equitable owners of the corporation or other business entity, if different from those otherwise provided, unless the securities of the

corporation or entity are registered pursuant to the federal Securities Exchange Act of 1934, and:

- The applicant files reports with the United States Securities and Exchange Commission as required by section 13 of that act; or
- The securities of the corporation or entity are regularly traded on an established securities market in the United States.
- The estimated number of fantasy sports contests to be conducted by the applicant annually;
- A statement of the assets and liabilities of the applicant;
- The names and addresses of the officers and directors of any creditor of the applicant and of stockholders who hold more than 10 percent of the stock of the creditor, if required by the division;
- For each individual listed in the application, a full set of fingerprints to be submitted to the division or to a vendor, entity, or agency authorized by s. 943.053(13), F.S., which must be:
 - Forwarded to the Department of Law Enforcement (FDLE) for state processing;
 - Forwarded to the Federal Bureau of Investigation by the FDLE for national processing.
 - Retained by the FDLE as provided in s. 943.05(2)(g) and (h), F.S.; and
 - Enrolled in the Federal Bureau of Investigation's national retained print arrest notification program when the FDLE begins participation in that program. Any arrest record identified must be reported to the division.
- For each foreign national, such documents as necessary to allow the division to conduct criminal history records checks in the individual's home country; the applicant must pay the full cost of processing fingerprints and required documentation.

Under the bill, a person or entity is not eligible for licensure as a contest operator or for licensure renewal if the division determines after investigation that an individual required to be listed in the application, is not of good moral character or is found to have been convicted of a felony in Florida, any offense in another jurisdiction which would be considered a felony if committed in Florida, or a felony under the laws of the United States. The term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

In addition, the bill provides the license of a contest operator is automatically suspended 30 calendar days after entry of a final order imposing an administrative fine against the contest operator, if the administrative fine has not been paid. The license of a contest operator may not be renewed, and an application for licensure as a contest operator may not be approved, if the contest operator or an applicant is liable for an outstanding administrative fine imposed under the act. A contest operator's license remains suspended until the administrative fine is paid. However, a contest operator's license may not be suspended and an application for licensure may not be denied if the contest operator or the applicant has an appeal from a final order pending in any appellate court.

Section 6 creates s. 546.16, F.S., relating to consumer protections that require a contest operator to implement fantasy sports contests procedures that:

- Prevent the contest operator's employees, their relatives, or persons living in the same household as the employees, from competing in a fantasy sports contest in which a cash prize is awarded. The term "relative" means a spouse, father, mother, son, daughter, grandfather,

grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister;

- Prohibit the contest operator from being a contest participant in a fantasy sports contest that he or she offers;
- Prevent the contest operator's employees or agents from sharing with a third party confidential information that could affect fantasy sports contest play until the information has been made publicly available;
- Verify that contest participants are 21 years of age or older;
- Restrict an individual who is a player, a game official, or another participant in a real-world game or competition from participating in a fantasy sports contest that is determined, in whole or in part, on the performance of that individual, the individual's real-world team, or the accumulated statistical results of the sport or competition in which he or she is a player, game official, or other participant;
- Allow individuals to restrict or prevent their own access to fantasy sports contests and take reasonable steps to prevent those individuals from entering a fantasy sports contest;
- Limit the number of entries a single contest participant may submit to each fantasy sports contest and take reasonable steps to prevent participants from submitting more than the allowable number of entries; and
- Segregate contest participants' funds from operational funds or maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof in the total amount of deposits in contest participants' accounts for the benefit and protection of authorized contest participants' funds held in fantasy sports contest accounts.

A contest operator must annually contract with a third party to perform an independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with the act, and submit the results of the independent audit to the division no later than 90 days after the end of each annual licensing period.

A contest operator must use only statistics, results, outcomes, and other data relating to a professional sporting event that have been obtained from the relevant sports governing body or an entity expressly authorized by the sports governing body to provide such information to contest operators.

Section 7 creates s. 546.17, F.S., to require each contest operator to keep and maintain daily records of its operations and to maintain such records for at least three years. The records must sufficiently detail all financial transactions required to determine compliance with the requirements of the act and must be available for audit and inspection by the division or other law enforcement agencies during the contest operator's regular business hours. Under the bill, the division must adopt rules to implement s. 547.17, F.S.

Section 8 creates s. 546.18, F.S., relating to penalties for violations of the act. A contest operator, or its employee or agent, who violates the act is subject to an administrative fine, not to exceed \$5,000 for each violation and not to exceed \$100,000 in the aggregate, for deposit to the state's general revenue fund. An action to recover such penalties may be brought by the division or the Department of Legal Affairs in the circuit courts in the name and on behalf of the state.

However, the penalty provisions do not apply to violations committed by a contest operator which occurred prior to the issuance of a license under the act if the contest operator applies for a license within 90 days after the effective date of s. 546.18, F.S., and receives a license within 240 days after the effective date of that section.

Under the bill, fantasy sports contests conducted by a contest operator or noncommercial contest operator in compliance with all fantasy sports contest requirements are not subject to certain gambling laws³⁰ set forth in ch. 849, F.S., relating to Gambling.

Sections 9, 10, 11 and 12 amend provisions in ss. 16.71, 16.712, 16.713, and 16.715, F.S., relating to the Florida Gaming Control Commission (commission), as created in SB 4A (Gaming Enforcement), if SB 4A becomes a law. The commission must receive and review violations of ch. 546, F.S., (Amusement Facilities), which includes fantasy sports contests, and to prohibit certain commission candidates, members, employees, or former commissioners or employees from holding a license issued under ch. 546, F.S., prior to, during, and after appointment or employment with the commission, for the time frames described in the bill.

Section 13 amends s. 849.144, F.S., created in the linked bill, SB 4A (Gaming Enforcement). The bill includes fantasy sports contests as an activity exempted from certain gambling laws in ch. 849, F.S. (Gambling).

Section 14 provides, if SB 4A (Gaming Enforcement) becomes a law in the 2021 Special Session A, the portion of SB 4A, relating to a Type Two transfer of various powers, duties and funds of the DBPR to the Florida Gaming Control Commission, is amended to include in the transfer such powers, duties, and funds relating to the regulation of fantasy sports contests under ch. 546, F.S.

Section 15 provides the act takes effect on the same date that SB 2A (Implementation of the 2021 Gaming Compact) or similar legislation is adopted in the same legislative session and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁰ See ss. 849.01, 849.08, 849.09, 849.11, 849.14, and 849.25, F.S., relating to various activities that are prohibited by or must comply with Florida law.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who act as fantasy sports contest operators will be required to meet various requirements imposed by the bill, such as auditing and consumer protection measures, that will have associated costs.

C. Government Sector Impact:

The division must implement the provisions of the bill and adopt forms and procedures for the licensing of fantasy sports contest operators. The Revenue Estimating Conference has not reviewed the fiscal impact of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.71, 16.712, 16.713, and 16.715.

The bill creates the following sections of the Florida Statutes: 546.11, 546.12, 546.13, 546.14, 546.15, 546.16, 546.17, 546.18, and 849.142.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 89 - 329
and insert:

(5) "Division" means the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.

(6) "Entry fee" means the cash or cash equivalent amount that is required to be paid by a person to a contest operator or noncommercial contest operator to participate in a fantasy sports contest.



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11 (7) "Fantasy sports contest" means a fantasy or simulation
12 sports game or contest offered by a contest operator or a
13 noncommercial contest operator in which a contest participant
14 manages a fantasy or simulation sports team composed of athletes
15 from a professional sports organization and which meets each of
16 the following requirements:

17 (a) All prizes and awards offered to winning contest
18 participants are established and made known to the contest
19 participants in advance of the game or contest and their value
20 is not determined by the number of contest participants or the
21 amount of any fees paid by those contest participants.

22 (b) All winning outcomes reflect the relative knowledge and
23 skill of the contest participants and are determined
24 predominantly by accumulated statistical results of the
25 performance of individuals, including athletes in the case of
26 sporting events.

27 (c) No winning outcome is based on the score, point spread,
28 or any performance or performances of any single actual team or
29 combination of such teams; solely on any single performance of
30 an individual athlete or player in a single actual event; on a
31 pari-mutuel event, as the term "pari-mutuel" is defined in s.
32 550.002; on a game of poker or other card game; or on the
33 performances of participants in collegiate, high school, or
34 youth sporting events.

35 (d) No casino graphics, themes, or titles, including, but
36 not limited to, depictions of slot machine-style symbols, cards,
37 dice, craps, roulette, or lotto, are displayed or depicted.

38 (8) "Noncommercial contest operator" means a natural person
39 who organizes and conducts a fantasy or simulation sports



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contest in which contest participants are charged entry fees for the right to participate; entry fees are collected, maintained, and distributed by the same natural person; the total entry fees collected, maintained, and distributed by such natural person do not exceed \$1,500 per season or a total of \$10,000 per calendar year; and all entry fees are returned to the contest participants in the form of prizes.

Section 4. Section 546.14, Florida Statutes, is created to read:

546.14 Enforcement and administration; rulemaking.—

(1) The division shall enforce and administer this act.

(2) The division may:

(a) Conduct investigations and monitor the operation and play of fantasy sports contests.

(b) Review the books, accounts, and records of any current or former contest operator.

(c) Deny, suspend, or revoke any license under this act for any violation of state law or rule.

(d) Take testimony, issue summons and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(e) Monitor and ensure the proper collection and safeguarding of entry fees and the payment of contest prizes in accordance with consumer protection procedures enacted pursuant to s. 546.16.

(f) Investigate any licensed or unlicensed person or entity when such person or entity is advertising as offering or providing, or is engaged in conducting, a fantasy sports contest that requires licensure under this act or when a contest



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operator or noncommercial contest operator is engaged in activities that do not comply with or are prohibited by this act. The division shall have the authority to issue an order to such licensed or unlicensed person or entity or contest operator or noncommercial contest operator to cease and desist the further conduct of such activities, to seek an injunction, or to take other appropriate action to enforce the requirements of this act.

(3) The division shall revoke a contest operator's license if the contest operator offers fantasy sports contests that violate s. 546.13(6)(c).

(4) The division shall adopt rules to implement and administer this act. Such rules may not conflict with, and must be applied, construed, and interpreted in a manner consistent with, the gaming compact ratified, approved, and described in s. 285.710(3).

Section 5. Section 546.15, Florida Statutes, is created to read:

546.15 Licensing.—

(1) A contest operator must be licensed by the division to conduct fantasy sports contests within this state.

(2) The application must include:

(a) The full name of the applicant.

(b) If the applicant is a corporation, the name of the state in which the applicant is incorporated and the names and addresses of the officers, directors, and shareholders who hold 15 percent or more equity.

(c) If the applicant is a business entity other than a corporation, the names and addresses of each principal, partner,



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or shareholder who holds 15 percent or more equity.

(d) The names and addresses of the ultimate equitable owners of the corporation or other business entity, if different from those provided under paragraph (b) or paragraph (c), unless the securities of the corporation or entity are registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and:

1. The corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act; or

2. The securities of the corporation or entity are regularly traded on an established securities market in the United States.

(e) The estimated number of fantasy sports contests to be conducted by the applicant annually.

(f) A statement of the assets and liabilities of the applicant.

(g) If required by the division, the names and addresses of the officers and directors of any creditor of the applicant and of stockholders who hold more than 10 percent of the stock of the creditor.

(h) For each individual listed in the application pursuant to paragraph (a), paragraph (b), paragraph (c), or paragraph (d), a full set of fingerprints to be submitted to the division or to a vendor, entity, or agency authorized by s. 943.053(13).

1. The division, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for



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national processing.

2. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, shall be enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. Any arrest record identified shall be reported to the division by the Department of Law Enforcement.

(i) For each foreign national, such documents as necessary to allow the division to conduct criminal history records checks in the individual's home country. The applicant must pay the full cost of processing fingerprints and required documentation.

(3) A person or entity is not eligible for licensure as a contest operator or for licensure renewal if an individual required to be listed pursuant to paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), or paragraph (2)(d) is determined by the division, after investigation, not to be of good moral character or is found to have been convicted of a felony in this state, any offense in another jurisdiction which would be considered a felony if committed in this state, or a felony under the laws of the United States. As used in this subsection, the term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(4) The license of a contest operator is automatically suspended upon entry of a final order imposing an administrative fine against the contest operator, until the administrative fine is paid, if 30 calendar days have elapsed since the entry of the



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final order. The license of a contest operator may not be renewed and an application for licensure as a contest operator may not be approved if the contest operator or the applicant for licensure as a contest operator is liable for an outstanding administrative fine imposed under this act. Notwithstanding the provisions of this subsection, a contest operator's license may not be suspended and an application for licensure as a contest operator may not be denied if the contest operator or the applicant has an appeal from a final order pending in any appellate court.

Section 6. Section 546.16, Florida Statutes, is created to read:

546.16 Consumer protection.—

(1) A contest operator must implement procedures for fantasy sports contests which:

(a) Prevent its employees, their relatives, or persons living in the same household as the employees from competing in a fantasy sports contest in which a cash prize is awarded. However, a contest operator may offer fantasy sports contests to its employees in which the employees are the sole participants in the contests. For the purposes of this paragraph, the term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

(b) Prohibit the contest operator from being a contest participant in a fantasy sports contest that he or she offers.



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(c) Prevent its employees or agents from sharing with a third party confidential information that could affect fantasy sports contest play, until the information has been made publicly available.

(d) Verify that contest participants are 21 years of age or older.

(e) Restrict an individual who is a player, a game official, or another participant in a real-world game or competition from participating in a fantasy sports contest that is determined, in whole or in part, on the performance of that individual, the individual's real-world team, or the accumulated statistical results of the sport or competition in which he or she is a player, game official, or other participant.

(f) Allow individuals to restrict or prevent their own access to fantasy sports contests and take reasonable steps to prevent those individuals from entering a fantasy sports contest.

(g) Limit the number of entries a single contest participant may submit to each fantasy sports contest and take reasonable steps to prevent participants from submitting more than the allowable number of entries.

(h) Segregate contest participants' funds from operational funds or maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof in the total amount of deposits in contest participants' accounts for the benefit and protection of authorized contest participants' funds held in fantasy sports contest accounts.



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(2) (a) A contest operator must annually contract with a third party to perform an independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with this act. The contest operator shall submit the results of the independent audit to the division no later than 90 days after the end of each annual licensing period.

(b) Any data source and the corresponding data to determine the results of all fantasy sports contests offered by contest operators, other than noncommercial contest operators, must be complete, accurate, reliable, and appropriate to settle the outcome of the fantasy sports contests for which it is used.

Section 7. Section 546.17, Florida Statutes, is created to read:

546.17 Records and reports.—Each contest operator shall keep and maintain daily records of its operations and shall maintain such records for at least 3 years. The records must sufficiently detail all financial transactions required to determine compliance with the requirements of this act and must be available for audit and inspection by the division or other law enforcement agencies during the contest operator's regular business hours. The division shall adopt rules to implement this section.

Section 8. Section 546.18, Florida Statutes, is created to read:

546.18 Penalties; applicability; exemption.—

(1) (a) A contest operator, or an employee or agent thereof, who violates this act is subject to an administrative fine, not to exceed \$5,000 for each violation and not to exceed \$100,000



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in the aggregate. All fines imposed and collected under this subsection must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund. An action to recover such penalties may be brought by the division or the Department of Legal Affairs in the name and on behalf of the state.

(b) The penalty provisions established in this subsection do not apply to violations committed by a contest operator which occurred prior to the issuance of a license under this act if the contest operator applies for a license within 90 days after the date the division begins accepting applications, and receives a license within 240 days after such date.

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

And the title is amended as follows:

Delete lines 11 - 29

and insert:

take certain actions; requiring the division to revoke a contest operator's license under certain circumstances; authorizing the division to adopt rules; creating s. 546.15, F.S.; providing application requirements for fantasy sports contest operator licenses; providing that specified persons or entities are not eligible for licensure under certain circumstances; defining the term "convicted"; specifying that a contest operator license is automatically suspended under certain circumstances; providing an exception; creating s. 546.16, F.S.; requiring a contest operator to implement specified consumer protection procedures under certain



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272 circumstances; defining the term "relative"; requiring
273 a contest operator to annually contract with a third
274 party to perform an independent audit; requiring a
275 contest operator to submit the audit results to the
276 division within a certain timeframe; requiring a
277 contest operator to use data sources that meet
278 specified requirements; creating s. 546.17, F.S.;

By Senator Hutson

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1 A bill to be entitled
 2 An act relating to the Fantasy Sports Contest
 3 Amusement Act; creating s. 546.11, F.S.; providing a
 4 short title; creating s. 546.12, F.S.; providing
 5 legislative findings and intent; creating s. 546.13,
 6 F.S.; defining terms; creating s. 546.14, F.S.;
 7 providing for the enforcement and administration of
 8 the Fantasy Sports Contest Amusement Act; authorizing
 9 the Division of Pari-mutuel Wagering within the
 10 Department of Business and Professional Regulation to
 11 take certain actions; authorizing the division to
 12 adopt rules; creating s. 546.15, F.S.; providing
 13 application requirements for fantasy sports contest
 14 operator licenses; providing that specified persons or
 15 entities are not eligible for licensure under certain
 16 circumstances; defining the term "convicted";
 17 specifying that a contest operator license is
 18 automatically suspended under certain circumstances;
 19 providing an exception; creating s. 546.16, F.S.;
 20 requiring a contest operator to implement specified
 21 consumer protection procedures under certain
 22 circumstances; defining the term "relative"; requiring
 23 a contest operator to annually contract with a third
 24 party to perform an independent audit; requiring a
 25 contest operator to submit the audit results to the
 26 division within a certain timeframe; requiring a
 27 contest operator to use only specified statistics,
 28 results, outcomes, and other data relating to a
 29 professional sporting event; creating s. 546.17, F.S.;

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

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30 requiring contest operators to keep and maintain
 31 certain records for a specified period; providing a
 32 requirement for such records; requiring that such
 33 records be available for audit and inspection;
 34 requiring the division to adopt rules; creating s.
 35 546.18, F.S.; providing a civil penalty; providing
 36 applicability; exempting fantasy contests from certain
 37 provisions in ch. 849, F.S.; amending s. 16.71, F.S.;
 38 prohibiting the Governor from soliciting or requesting
 39 certain information from a person with a license to
 40 conduct fantasy sports contests; amending s. 16.712,
 41 F.S.; conforming provisions to changes made by the
 42 act; amending s. 16.713, F.S.; revising prohibitions
 43 relating to appointment to and employment with the
 44 division to include prohibitions relating to fantasy
 45 sports contest licenses; amending s. 16.715, F.S.;
 46 revising prohibitions relating to former commissioners
 47 and employees of the commission to include
 48 prohibitions relating to fantasy sports contest
 49 licenses; creating s. 849.144, F.S.; specifying that
 50 certain activities relating to fantasy sports contests
 51 are not subject to certain gambling-related
 52 prohibitions; amending SB 4A to include the regulation
 53 of fantasy sports contests in a type two transfer
 54 occurring on a certain date; providing a contingent
 55 effective date.

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

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Section 1. Section 546.11, Florida Statutes, is created to read:

546.11 Short title.—Sections 546.11-546.18 may be cited as the “Fantasy Sports Contest Amusement Act.”

Section 2. Section 546.12, Florida Statutes, is created to read:

546.12 Legislative intent; findings.—It is the intent of the Legislature to ensure public confidence in the integrity of fantasy sports contests and contest operators. This act is designed to regulate the contest operators and individuals who participate in such contests and to enact consumer protections related to fantasy sports contests. Furthermore, the Legislature finds that fantasy sports contests, as that term is defined in s. 546.13, involve the skill of contest participants.

Section 3. Section 546.13, Florida Statutes, is created to read:

546.13 Definitions.—As used in ss. 546.11-546.18, the term:

(1) “Act” means ss. 546.11-546.18.

(2) “Confidential information” means information related to the playing of fantasy sports contests by contest participants which is obtained solely as a result of a person’s employment with, or work as an agent of, a contest operator.

(3) “Contest operator” means a person or entity that offers fantasy sports contests for a cash prize to members of the public, but does not include a noncommercial contest operator in this state.

(4) “Contest participant” means a person who pays an entry fee for the ability to participate in a fantasy or simulation sports game or contest offered by a contest operator or

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noncommercial contest operator.

(5) “Entry fee” means the cash or cash equivalent amount that is required to be paid by a person to a contest operator or noncommercial contest operator to participate in a fantasy sports contest.

(6) “Fantasy sports contest” means a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization and which meets each of the following requirements:

(a) All prizes and awards offered to winning contest participants are established and made known to the contest participants in advance of the game or contest and their value is not determined by the number of contest participants or the amount of any fees paid by those contest participants.

(b) All winning outcomes reflect the relative knowledge and skill of the contest participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.

(c) No winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such teams; solely on any single performance of an individual athlete or player in a single actual event; on a pari-mutuel event, as the term “pari-mutuel” is defined in s. 550.002; on a game of poker or other card game; or on the performances of participants in collegiate, high school, or youth sporting events.

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(d) No casino graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, dice, craps, roulette, or lotto, are displayed or depicted.

(7) "Noncommercial contest operator" means a natural person who organizes and conducts a fantasy or simulation sports contest in which contest participants are charged entry fees for the right to participate; entry fees are collected, maintained, and distributed by the same natural person; the total entry fees collected, maintained, and distributed by such natural person do not exceed \$1,500 per season or a total of \$10,000 per calendar year; and all entry fees are returned to the contest participants in the form of prizes.

Section 4. Section 546.14, Florida Statutes, is created to read:

546.14 Enforcement and administration; rulemaking.—

(1) The division shall enforce and administer this act.

(2) The division may:

(a) Conduct investigations and monitor the operation and play of fantasy sports contests.

(b) Review the books, accounts, and records of any current or former contest operator.

(c) Deny, suspend, or revoke any license under this act for any violation of state law or rule.

(d) Take testimony, issue summons and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(e) Monitor and ensure the proper collection and safeguarding of entry fees and the payment of contest prizes in accordance with consumer protection procedures enacted pursuant

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to s. 546.16.

(f) Investigate any licensed or unlicensed person or entity when such person or entity is advertising as offering or providing, or is engaged in conducting, a fantasy sports contest that requires licensure under this act or when a contest operator or noncommercial contest operator is engaged in activities that do not comply with or are prohibited by this act. The division shall have the authority to issue an order to such licensed or unlicensed person or entity or contest operator or noncommercial contest operator to cease and desist the further conduct of such activities, to seek an injunction, or to take other appropriate action to enforce the requirements of this act.

(3) The division shall adopt rules to implement and administer this act. Such rules may not conflict with, and must be applied, construed, and interpreted in a manner consistent with, the gaming compact ratified, approved, and described in s. 285.710(3).

Section 5. Section 546.15, Florida Statutes, is created to read:

546.15 Licensing.—

(1) A contest operator must be licensed by the division to conduct fantasy sports contests within this state.

(2) The application must include:

(a) The full name of the applicant.

(b) If the applicant is a corporation, the name of the state in which the applicant is incorporated and the names and addresses of the officers, directors, and shareholders who hold 15 percent or more equity.

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(c) If the applicant is a business entity other than a corporation, the names and addresses of each principal, partner, or shareholder who holds 15 percent or more equity.

(d) The names and addresses of the ultimate equitable owners of the corporation or other business entity, if different from those provided under paragraph (b) or paragraph (c), unless the securities of the corporation or entity are registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and:

1. The corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act; or

2. The securities of the corporation or entity are regularly traded on an established securities market in the United States.

(e) The estimated number of fantasy sports contests to be conducted by the applicant annually.

(f) A statement of the assets and liabilities of the applicant.

(g) If required by the division, the names and addresses of the officers and directors of any creditor of the applicant and of stockholders who hold more than 10 percent of the stock of the creditor.

(h) For each individual listed in the application pursuant to paragraph (a), paragraph (b), paragraph (c), or paragraph (d), a full set of fingerprints to be submitted to the division or to a vendor, entity, or agency authorized by s. 943.053(13).

1. The division, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state

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processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

2. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, shall be enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. Any arrest record identified shall be reported to the division by the Department of Law Enforcement.

(i) For each foreign national, such documents as necessary to allow the division to conduct criminal history records checks in the individual's home country. The applicant must pay the full cost of processing fingerprints and required documentation.

(3) A person or entity is not eligible for licensure as a contest operator or for licensure renewal if an individual required to be listed pursuant to paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), or paragraph (2)(d) is determined by the division, after investigation, not to be of good moral character or is found to have been convicted of a felony in this state, any offense in another jurisdiction which would be considered a felony if committed in this state, or a felony under the laws of the United States. As used in this subsection, the term "convicted" means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(4) The license of a contest operator is automatically suspended upon entry of a final order imposing an administrative

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fine against the contest operator, until the administrative fine is paid, if 30 calendar days have elapsed since the entry of the final order. The license of a contest operator may not be renewed and an application for licensure as a contest operator may not be approved if the contest operator or the applicant for licensure as a contest operator is liable for an outstanding administrative fine imposed under this act. Notwithstanding the provisions of this subsection, a contest operator's license may not be suspended and an application for licensure as a contest operator may not be denied if the contest operator or the applicant has an appeal from a final order pending in any appellate court.

Section 6. Section 546.16, Florida Statutes, is created to read:

546.16 Consumer protection.—

(1) A contest operator must implement procedures for fantasy sports contests which:

(a) Prevent its employees, their relatives, or persons living in the same household as the employees from competing in a fantasy sports contest in which a cash prize is awarded. For the purposes of this paragraph, the term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

(b) Prohibit the contest operator from being a contest participant in a fantasy sports contest that he or she offers.

(c) Prevent its employees or agents from sharing with a

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third party confidential information that could affect fantasy sports contest play, until the information has been made publicly available.

(d) Verify that contest participants are 21 years of age or older.

(e) Restrict an individual who is a player, a game official, or another participant in a real-world game or competition from participating in a fantasy sports contest that is determined, in whole or in part, on the performance of that individual, the individual's real-world team, or the accumulated statistical results of the sport or competition in which he or she is a player, game official, or other participant.

(f) Allow individuals to restrict or prevent their own access to fantasy sports contests and take reasonable steps to prevent those individuals from entering a fantasy sports contest.

(g) Limit the number of entries a single contest participant may submit to each fantasy sports contest and take reasonable steps to prevent participants from submitting more than the allowable number of entries.

(h) Segregate contest participants' funds from operational funds or maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof in the total amount of deposits in contest participants' accounts for the benefit and protection of authorized contest participants' funds held in fantasy sports contest accounts.

(2) (a) A contest operator must annually contract with a

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third party to perform an independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with this act. The contest operator shall submit the results of the independent audit to the division no later than 90 days after the end of each annual licensing period.

(b) A contest operator must use only statistics, results, outcomes, and other data relating to a professional sporting event which have been obtained from the relevant sports governing body or an entity expressly authorized by the sports governing body to provide such information to contest operators.

Section 7. Section 546.17, Florida Statutes, is created to read:

546.17 Records and reports.—Each contest operator shall keep and maintain daily records of its operations and shall maintain such records for at least 3 years. The records must sufficiently detail all financial transactions required to determine compliance with the requirements of this act and must be available for audit and inspection by the division or other law enforcement agencies during the contest operator's regular business hours. The division shall adopt rules to implement this section.

Section 8. Section 546.18, Florida Statutes, is created to read:

546.18 Penalties; applicability; exemption.—

(1)(a) A contest operator, or an employee or agent thereof, who violates this act is subject to an administrative fine, not to exceed \$5,000 for each violation and not to exceed \$100,000 in the aggregate. All fines imposed and collected under this

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subsection must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund. An action to recover such penalties may be brought by the division or the Department of Legal Affairs in the name and on behalf of the state.

(b) The penalty provisions established in this subsection do not apply to violations committed by a contest operator which occurred prior to the issuance of a license under this act if the contest operator applies for a license within 90 days after July 1, 2023, and receives a license within 240 days after July 1, 2023.

(2) Fantasy sports contests conducted by a contest operator or noncommercial contest operator in accordance with this act are not subject to s. 849.01, s. 849.08, s. 849.09, s. 849.11, s. 849.14, or s. 849.25.

Section 9. If SB 4A, 2021 Special Session A, becomes a law, paragraph (b) of subsection (3) of section 16.71, Florida Statutes, as created by SB 4A, 2021 Special Session A, is amended to read:

16.71 Florida Gaming Control Commission; creation; meetings; membership.—

(3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.—

(b) The Governor may not solicit or request any nominations, recommendations, or communications about potential candidates for appointment to the commission from:

1. Any person that holds a permit or license issued under chapter 550, or a license issued under chapter 546, chapter 551, or chapter 849; an officer, official, or employee of such permitholder or licensee; or an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

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2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or an ultimate equitable owner, as defined in s. 550.002(37), of such entity; or

3. Any registered lobbyist for the executive or legislative branch who represents any person or entity identified in subparagraph 1. or subparagraph 2.

Section 10. If SB 4A, 2021 Special Session A, becomes a law, paragraph (i) of subsection (1) of section 16.712, Florida Statutes, as created by SB 4A, 2021 Special Session A, is amended to read:

16.712 Florida Gaming Control Commission authorizations, duties, and responsibilities.—

(1) The commission shall do all of the following:

(i) Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849 and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.

Section 11. If SB 4A, 2021 Special Session A, becomes a law, paragraph (d) of subsection (1) and paragraph (a) of subsection (2) of section 16.713, Florida Statutes, as created

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by SB 4A, 2021 Special Session A, are amended to read:

16.713 Florida Gaming Control Commission; appointment and employment restrictions.—

(1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.—

All of the following people are ineligible for appointment to the commission:

(d) A person who has had a license or permit issued under chapter 546, chapter 550, chapter 551, or chapter 849 or a gaming license issued by any other jurisdiction denied, suspended, or revoked.

(2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE COMMISSION.—

(a) A person may not, for the 2 years immediately preceding the date of appointment to or employment with the commission and while appointed to or employed with the commission:

1. Hold a permit or license issued under chapter 550 or a license issued under chapter 546, chapter 551, or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Be an officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; be a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or be an ultimate equitable owner, as defined in s. 550.002(37), of such entity;

3. Be or have been a member of the Legislature;

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4. Be a registered lobbyist for the executive or legislative branch, except while a commissioner when officially representing the commission; or

5. Be a bingo game operator or an employee of a bingo game operator.

Section 12. If SB 4A, 2021 Special Session A, becomes a law, paragraphs (b) and (c) of subsection (2) of section 16.715, Florida Statutes, as created by SB 4A, 2021 Special Session A, are amended to read:

16.715 Florida Gaming Control Commission standards of conduct; ex parte communications.—

(2) FORMER COMMISSIONERS AND EMPLOYEES.—

(b) A commissioner may not, for the 2 years immediately following the date of resignation or termination from the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 546, chapter 551, or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Accept employment by or compensation from a business entity that, directly or indirectly, owns or controls a person regulated by the commission; from a person regulated by the commission; from a business entity which, directly or indirectly, is an affiliate or subsidiary of a person regulated by the commission; or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member's resignation or termination of service on the commission; or

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3. Be a bingo game operator or an employee of a bingo game operator.

(c) A person employed by the commission may not, for the 2 years immediately following the date of termination or resignation from employment with the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 546, chapter 551, or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee; or

2. Be a bingo game operator or an employee of a bingo game operator.

Section 13. Section 849.144, Florida Statutes, is created to read:

849.144 Fantasy sports contest exemptions.—Sections 849.01, 849.08, 849.09, 849.11, 849.14, and 849.25 do not apply to participation in or the conduct of fantasy sports contests conducted pursuant to chapter 546.

Section 14. If SB 4A, 2021 Special Session A, becomes a law, subsection (1) of section 11 of SB 4A, 2021 Special Session A, is amended to read:

(1) Effective July 1, 2022, all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds in the Department of Business and Professional Regulation related to the oversight responsibilities by the state compliance agency for authorized gaming compacts under s. 285.710, Florida

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465 Statutes, the regulation of fantasy sports contests under
466 chapter 546, Florida Statutes, the regulation of pari-mutuel
467 wagering under chapter 550, Florida Statutes, the regulation of
468 slot machines and slot machine gaming under chapter 551, Florida
469 Statutes, and the regulation of cardrooms under s. 849.086,
470 Florida Statutes, are transferred by a type two transfer, as
471 defined in s. 20.06(2), Florida Statutes, to the Florida Gaming
472 Control Commission within the Department of Legal Affairs,
473 Office of the Attorney General.

474 Section 15. This act shall take effect on the same date
475 that SB 2A or similar legislation takes effect, if such
476 legislation is adopted in the same legislative session or an
477 extension thereof and becomes a law.

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 Committee on Appropriations

BILL: SB 18A

INTRODUCER: Senator Hutson

SUBJECT: Fees/Fantasy Contest Operators

DATE: May 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer/Imhof	Sadberry	AP	Pre-meeting
2.				
3.				

I. Summary:

SB 18A imposes license fees on certain fantasy sports contest operators who offer fantasy sports contests for a cash prize to members of the public in this state. Contest operators must pay an initial license application fee of \$1 million, and renewal fees of \$250,000 annually. Such fees may not exceed 10 percent of the difference between the amount of entry fees collected by a contest operator from the operation of fantasy sports contests in this state, and the amount of cash or cash equivalents paid to contest participants in this state. These license fees do not apply to individuals who act as noncommercial contest operators, as defined in SB 16A, who collect and distribute entry fees totaling no more than \$1,500 per season or \$10,000 annually, and meet other specified requirements. The fees are to be paid to the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation (division).

SB 16A (Fantasy Sports Contests), is a linked bill that addresses authorized fantasy sports contests.

See Section V, Fiscal Impact Statement.

The bill is effective on the same date that SB 16A (Fantasy Sports Contests) or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴

However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷
- Cardrooms⁸ at certain pari-mutuel facilities;⁹
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;¹⁰
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S., the Family Amusement Games Act;¹¹ and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
 - Penny-ante games;¹²
 - Bingo;¹³
 - Charitable drawings;¹⁴
 - Game promotions (sweepstakes);¹⁵ and
 - Bowling tournaments.¹⁶

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. See s. 550.002(22), F.S.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. See s. 849.086(2)(c), F.S., which 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 charged a fee for participation by the operator of such facility.”

⁹ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited May 11, 2021).

¹⁰ Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹¹ See s. 546.10, F.S.

¹² See s. 849.085, F.S.

¹³ See s. 849.0931, F.S.

¹⁴ See s. 849.0935, F.S.

¹⁵ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁶ See s. 849.141, F.S.

Fantasy Sports Contests

The conduct of fantasy sports contests in the state is not authorized under current law, but is proposed to be authorized as described in ss. 546.11 through 546.19, F.S., created in the linked bill, SB 8A, relating to Gaming.

The operation of fantasy sports activities in Florida has received significant publicity, much like the operation of internet cafes in recent years. Many states are now evaluating the status of fantasy sports activities in their jurisdictions,¹⁷ as there are millions of participants.¹⁸

A fantasy sports game typically has multiple players who select and manage imaginary teams whose players are actual professional sports players. Fantasy game players compete against one another in various formats, including weekly leagues among friends and colleagues, season-long leagues, and on-line contests (daily and weekly) entered by using the Internet through personal computers or mobile telephones and other communications devices. There are various financial arrangements among players and game operators. The term “commissioner” has been used in the context of fantasy leagues to denote a person who manages a fantasy league, establishes league rules, resolves disputes over rule interpretations, publishes league standings, or selects the Internet service for publication of league standings.¹⁹

III. Effect of Proposed Changes:

The bill imposes license fees on certain fantasy sports contest operators²⁰ who offer fantasy sports contests for a cash prize to members of the public. Contest operators must pay an initial license application fee of \$1 million, and renewal fees of \$250,000 annually. Such fees may not exceed 10 percent of the difference between the amount of entry fees collected by a contest operator from the operation of fantasy sports contests in this state, and the amount of cash or cash equivalents paid to contest participants in this state.

These license fees do not apply to individuals who act as noncommercial contest operators by organizing and conducting fantasy or simulation sports contests in which:

- Contest participants are charged entry fees for the right to participate;

¹⁷ See Marc Edelman, *A Short Treatise on Fantasy Sports and the Law: How America Regulates its New National Pastime*, Journal of Sports & Entertainment Law, Harvard Law School Vol. 3 (Jan. 2012) (Edelman Treatise), at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907272 (last visited May 11, 2021).

¹⁸ According to the Fantasy Sports Trade Association, which states it represents the interests of 57 million fantasy sports players, fantasy sports leagues were originally referred to as “roisserie leagues” with the development of Rotisserie League Baseball in 1980, by magazine writer/editor Daniel Okrent, who met and played it with friends at a New York City restaurant La Rotisserie Francaise. See <http://fsta.org/about/history-of-fsta/> (last visited May 11, 2021).

¹⁹ See Bernhard & Eade, *Gambling in a Fantasy World: An Exploratory Study of Rotisserie Baseball Games*, 9 UNLV Gaming Research & Review Journal Issue 1, at 30, at <http://digitalscholarship.unlv.edu/grrj/vol9/iss1/3/> (last visited May 11, 2021).

²⁰ SB 16A (Fantasy Sports Contests) defines the term “contest operator” to mean “a person or entity that offers fantasy sports contests for a cash prize to members of the public, but does not include a noncommercial contest operator in this state. The term “noncommercial contest operator” is defined to mean “a natural person who organizes and conducts a fantasy or simulation sports contest in which contest participants are charged entry fees for the right to participate; entry fees are collected, maintained, and distributed by the same natural person; the total entry fees collected, maintained, and distributed by such natural person do not exceed \$1,500 per season or a total of \$10,000 per calendar year; and all entry fees are returned to the contest participants in the form of prizes.” *Id.*

- Entry fees are collected, maintained, and distributed by the same natural person;
- The total entry fees collected, maintained, and distributed total no more than \$1,500 per season or \$10,000 per calendar year; and
- All entry fees are returned to the contest participants in the form of prizes.

The bill provides the division must require a contest operator applicant to provide written evidence to the division of the proposed amount of entry fees and cash or cash equivalents to be paid to contest participants during the annual license period. Before a license renewal, a contest operator must:

- Provide written evidence to the division of the actual entry fees collected and cash or cash equivalents paid to contest participants during the previous period of licensure; and
- Remit to the division any difference in a license fee which results from the difference between the proposed amount of entry fees and cash or cash equivalents paid to contest participants, and the actual amounts collected and paid during the previous period of licensure.

Under the bill, fees for state and federal fingerprint processing and retention must be borne by license applicants; the state cost for fingerprint processing must meet the requirements of s. 943.053(3)(e), F.S., for records provided to persons or entities other than as specified in that section. The division also may charge a \$2 handling fee for each set of fingerprints submitted for a contest operator license.

The bill requires all fees collected by the division under s. 546.151, F.S., to be deposited into the Pari-mutuel Wagering Trust Fund.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII of the State Constitution requires a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”²¹

²¹ FLA. CONST. art. VII, s. 19(d)(1).

Section 19 of Article VII of the State Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill imposes initial license and annual renewal fees on certain fantasy sports contest operators who offer fantasy sports contests for a cash prize to members of the public in this state.

B. Private Sector Impact:

Certain licensed fantasy sports contest operators who offer fantasy sports contests for a cash prize to members of the public in this state will be required to pay an initial application fee and annual renewal fees for licensure as a contest operator, as described in the bill.

C. Government Sector Impact:

The creation of an additional licensing and regulatory structure for the conduct of fantasy sports contests by licensed persons may result in a fiscal impact to the Department of Business and Professional Regulation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 546.151 of the Florida Statutes.

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.

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

By Senator Hutson

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A bill to be entitled

An act relating to fees; creating s. 546.151, F.S.; requiring applicants for a fantasy contest operator license to pay a specified application fee; requiring contest operators to pay a specified annual license renewal fee; prohibiting such fees from exceeding a specified amount; requiring applicants and contest operators to provide certain written evidence; requiring contest operators to remit certain fees; specifying that the costs for certain fingerprint processing and retention shall be borne by applicants; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to charge a specified handling fee related to fingerprint processing; requiring certain fees to be deposited into the Pari-mutuel Wagering Trust Fund; providing a contingent effective date.

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

Section 1. Section 546.151, Florida Statutes, is created to read:

546.151 Fees.—

(1) An applicant for a license as a contest operator shall pay an initial license application fee of \$1 million to the division, and an applicant seeking to renew a contest operator license shall pay an annual license renewal fee of \$250,000 to the division; however, the respective fees may not exceed 10 percent of the difference between the amount of entry fees

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collected by a contest operator from the operation of fantasy sports contests in this state and the amount of cash or cash equivalents paid to contest participants in this state. The division shall require a contest operator applicant to provide written evidence of the proposed amount of entry fees and cash or cash equivalents to be paid to contest participants during the annual license period. Before a license renewal, a contest operator shall provide written evidence to the division of the actual entry fees collected and cash or cash equivalents paid to contest participants during the previous period of licensure. Before a license renewal, a contest operator shall remit to the division any difference in a license fee which results from the difference between the proposed amount of entry fees and cash or cash equivalents paid to contest participants and the actual amounts collected and paid during the previous period of licensure.

(2) Fees for state and federal fingerprint processing and retention shall be borne by an applicant for a contest operator license. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein.

(3) The division also may charge a \$2 handling fee for each set of fingerprints submitted for a contest operator license.

(4) All fees collected by the division under this section shall be deposited into the Pari-mutuel Wagering Trust Fund.

Section 2. This act shall take effect on the same date that SB 16A or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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