

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Hukill, Vice Chair

MEETING DATE: Wednesday, January 17, 2018
TIME: 1:30—3:30 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Hutson, Chair; Senator Hukill, Vice Chair; Senators Benacquisto, Bracy, Brandes, Braynon, Gibson, Steube, Thurston, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 840 Hutson (Compare H 223, CS/S 374)	Gaming; Authorizing a greyhound racing permitholder to receive an operating license to conduct pari-mutuel wagering activities at another permitholder's greyhound racing facility; authorizing such thoroughbred racing permitholder's facility to remain an eligible facility, to continue to be eligible for a slot machine license, to be exempt from certain provisions to be eligible as a guest track for intertrack wagering and simulcasting, and to remain eligible for a cardroom license; authorizing the division to establish a reasonable period to respond to certain requests from a licensed cardroom, etc. RI 01/17/2018 Favorable AFT AP	Favorable Yeas 7 Nays 2
2	SB 674 Young (Identical H 463, Compare H 1433, S 1774)	Steroid Use in Racing Greyhounds; Providing that a positive test result for anabolic steroids in certain samples taken from a greyhound violates the prohibition on the racing of animals that are impermissibly medicated or determined to have a prohibited substance present, etc. RI 01/17/2018 Favorable AG RC	Favorable Yeas 7 Nays 2

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 Regulated Industries

BILL: SB 840
 INTRODUCER: Senator Hutson
 SUBJECT: Gaming
 DATE: January 17, 2018 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	McSwain	RI	Favorable
2.	_____	_____	AFT	_____
3.	_____	_____	AP	_____

I. Summary:

SB 840 revises Florida law concerning gaming. The bill:

- Creates s. 546.13, F.S., to authorize certain fantasy contests in which participants pay an entry fee, fantasy contest operators and their employees and agents may not be participants in a fantasy contest, prizes and awards must be established and disclosed before a contest, 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 winning outcomes may not be based on performances in collegiate, high school, or youth sporting events.
- Provides that the Department of Business and Professional Regulation (DBPR) may not regulate and certain gambling laws set forth in Ch. 849, F.S., do not apply to a fantasy contest conducted by a fantasy contest operator or a commissioner who participates in fewer than ten contests each calendar year and distributes all contest entry fees as prizes.
- Allows, subject to eligibility requirements, greyhound racing permitholders, harness horse racing permitholders, quarter horse racing permitholders, and thoroughbred horse racing permitholders to stop conducting live performances but continue to operate slot machine facilities or cardrooms (decoupling).
- Requires permitholders licensed to conduct slot machine gaming or cardrooms that choose to discontinue live racing or games, (i.e., decouple), to make annual payments for the benefit of live thoroughbred horse racing purses.
- Reduces the tax rate on slot machines from 35 percent to 30 percent effective January 1, 2019, and to 25 percent effective July 1, 2020.
- Provides that if, in any year, the aggregate amount of tax paid to the state by slot machine licensees in Broward and Miami-Dade counties which were licensed before January 1, 2017, is less than the amount paid in the 2017-2018 state fiscal year, any of those licensees that paid less in that year than it paid in the 2017-2018 fiscal year must pay a surcharge equal to the difference between the amount of tax it paid in the 2017-18 fiscal year and the amount

paid during the applicable state fiscal year (limited to an amount not to exceed 35 percent of a licensee's slot machine revenue in the applicable state fiscal year).

- Provides that a Designated Player Game is not a banking game and sets certain requirements and limitations for a Designated Player Game.
- Limits the number of Designated Player Game tables in a cardroom to not more than 50 percent of the cardroom's total licensed tables.
- Grants additional rulemaking authority to the DBPR's Division of Pari-Mutuel Wagering (division) relating to requests from licensed cardrooms and imposes deadlines for response by the division to submissions by cardroom licensees relating to rules for new authorized games, revisions to internal controls, and revisions to rules for games.

SB 840 may have a significant negative fiscal impact. See Section V, Fiscal Impact Statement.

SB 840 is effective upon becoming 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

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., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, 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 ch. 551, F.S., relating to the regulation of slot machine gaming at pari-mutuel locations.

⁸ Section 849.086, F.S., and 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 2017-2018 Operating Licenses to operate 25 cardrooms. See <http://www.myfloridalicense.com/dbpr/pmw/PMW-PermitholderOperatingLicenses--2017-2018.html> (last visited Jan. 11, 2018).

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

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 are paid by the lottery to the Educational Enhancement Trust Fund (EETF) for uses pursuant to annual appropriations 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, game promotions (sweepstakes),¹⁵ and bowling tournaments.¹⁶ The Family Amusement Games Act was enacted in 2015 and authorizes skill-based amusement games and machines at specified locations.¹⁷

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.¹⁸ Pursuant to Chapter 285, 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.¹⁹

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. The Division of Pari-mutuel

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.

¹³ See s. 849.085, F.S.

¹⁴ See s. 849.0931, 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. 546.10, F.S.

¹⁸ The 2010 Gaming Compact was executed by the Governor and the Seminole Tribe on April 7, 2010, ratified by the Legislature, effective April 28, 2010, and approved by U.S. Secretary of the Interior, pursuant to the Indian Gaming Regulatory Act of 1988, on June 24, 2010. It took effect when published in the Federal Register on July 6, 2010. The 20-year term of the 2010 Gaming Compact expires July 31, 2030, unless renewed. Section 285.710(1)(f), F.S., designates the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation as the “state compliance agency” having authority to carry out the state’s oversight responsibilities under the 2010 Gaming Compact. See http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Jan. 11, 2018).

¹⁹ See s. 285.710, F.S., especially subsections (3), (13), and (14). The seven tribal locations where gaming is authorized by the 2010 Gaming Compact are: (1) Seminole Hard Rock Hotel & Casino—Hollywood (Broward); (2) Seminole Indian Casino—Coconut Creek (Broward); (3) Seminole Indian Casino—Hollywood (Broward); (4) Seminole Hard Rock Hotel & Casino—Tampa (Hillsborough); (5) Seminole Indian Casino—Immokalee (Collier); (6) Seminole Indian Casino—Brighton (Glades); and (7) Seminole Indian Casino—Big Cypress (Hendry).

Wagering of the Department of Business and Professional Regulation (DBPR) carries out the State's oversight responsibilities under the 2010 Gaming Compact.²⁰

A proposed gaming compact with the Seminole Tribe transmitted by the Governor for consideration by the Legislature (the Proposed 2015 Gaming Compact) has not been ratified.²¹ The Proposed 2015 Gaming Compact would have: (1) authorized the Seminole Tribe also to offer table games, such as craps and roulette, at its seven tribal facilities; (2) authorized banked card games, including blackjack, chemin de fer, and baccarat, at those facilities; (3) been for a term of 20 years, through June 30, 2036; and (4) included a \$3 billion guarantee of revenue sharing payments to the State for the first seven years (the Guarantee Period), with specific payment amounts during each year of the Guarantee Period and subsequent payments based on varying percentage rates of the amounts of the Seminole Tribe's net win.²²

Except for gaming facilities operating in accordance with the 2010 Gaming Compact with the Seminole Tribe, free-standing, commercial casinos are not authorized, and gaming activity, other than what is expressly authorized, is illegal.

III. Effect of Proposed Changes:

For ease of reference to each of the topics addressed in the bill, the Present Situation for each topic will be described, followed immediately by an associated section detailing the Effect of Proposed Changes.

Fantasy Contests

Present Situation:

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 status of fantasy gaming activities in their jurisdictions,²³ as there are millions of participants.²⁴

²⁰ See s. 285.710(1)(f), F.S.

²¹ See s. 285.712, F.S. The Governor is the designated state officer responsible for negotiating and executing tribal-state gaming compacts with federally recognized Indian tribes. To be effective, a proposed gaming compact must be ratified by the Senate and by the House, by a majority vote of the members present. See s. 285.712(3), F.S. The Proposed 2015 Gaming Compact, comparison chart, and transmittal letter from Governor Scott, are available for review on the Florida Senate Regulated Industries Committee website. See http://www.flsenate.gov/PublishedContent/Committees/2016-2018/RI/Links/2015_Gaming_Compact_Chart_and_Letter_from_Governor_Scott.pdf (last visited Jan. 11, 2018).

²² See the proposed 2015 Gaming Compact, Comparison Chart and transmittal letter from Governor Scott, at http://www.flsenate.gov/PublishedContent/Committees/2016-2018/RI/Links/2015_Gaming_Compact_Chart_and_Letter_from_Governor_Scott.pdf (last visited Jan. 11, 2018).

²³ 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 Jan. 11, 2018), and Jonathan Griffin, *The Legality of Fantasy Sports*, National Conference of State Legislatures Legisbrief (Sep. 2015) (on file with the Committee on Regulated Industries).

²⁴ 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 Jan. 11, 2018).

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. The term “commissioner” has been used in the context of fantasy baseball leagues to denote a person who manages a fantasy baseball league, establishes league rules, resolves disputes over rule interpretations, publishes league standings, or selects the Internet service for publication of league standings.²⁵

Florida law does not specifically address fantasy contests. Section 849.14, F.S.,²⁶ 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.²⁷

In 2013, Spectrum Gaming Group, as part of a Gambling Impact Study prepared for the Florida Legislature, analyzed data related to participation by adults in selected activities.²⁸ Based on 2012 U.S. Census data, participation in fantasy sports leagues in the prior 12 months (nearly nine million adults), and those who participate two or more times weekly (nearly three million adults), was greater than attendance at horse races in the prior 12 months (6,654,000 adults) with 159,000 attending two or more times weekly.²⁹

Florida Attorney General Opinions on Fantasy Sports Leagues and Contests Involving Skill

In 1991, Florida Attorney General Robert A. Butterworth issued a formal opinion³⁰ evaluating the legality of groups of football fans (contestants) paying for the right to manage a team under certain specified conditions. The Attorney General stated:

You ask whether the formation of a fantasy football league by a group of football fans in which contestants pay \$100 for the right to “manage” one of eight teams violates the state's gambling laws. You state that these teams are created by contestants by “drafting” players from all current eligible National Football League (NFL) members. Thus, these fantasy teams consist of members of various NFL teams.

According to your letter, each week the performance statistics of the players in actual NFL games are evaluated and combined with the

²⁵ 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/grj/vol9/iss1/3/>, (last visited Jan. 11, 2018).

²⁶ See Fla. AGO 91-03 (Jan. 8, 1991), at <http://myfloridalegal.com/. . . 91-03> (last visited Jan. 11, 2018).

²⁷ 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.

²⁸ See Spectrum Gaming Group Gambling Impact Study (Gambling Impact Study), at http://www.leg.state.fl.us/gamingstudy/docs/FGIS_Spectrum_28Oct2013.pdf (Oct. 28, 2013) (last visited Jan. 11, 2018).

²⁹ *Id.*, Figure 22 at page 119 (equivalent to page 67 of Part 1A of the printed Gambling Impact Study).

³⁰ See Fla. AGO 91-03 (Jan. 8, 1991), at <http://myfloridalegal.com/. . . 91-03> (last visited Jan. 11, 2018).

statistics of the other players on the fantasy team to determine the winner of the fantasy game and their ranking or standing in the fantasy league. No games are actually played by the fantasy teams; however, all results depend upon performance in actual NFL games. Following completion of the season, the proceeds are distributed according to the performance of the fantasy team.

In the contest described in the opinion, each contestant paid \$100 to participate in the fantasy football league and manage one of eight teams. The resulting \$800 in proceeds were used for prizes. The prizes were based upon the performance of the individual professional football players in actual games. Attorney General Butterworth determined the proceeds qualified as a "stake, bet or wager" on the result of a contest of skill and, as a result, the operation of the fantasy sports leagues violated s. 849.14, F.S., relating to unlawful betting on the result of a trial or contest of skill.³¹

The 1991 opinion cited *Creash v. State*, 179 So. 149, 152 (Fla. 1938). In *Creash*, the Florida Supreme Court held:

In gamblers' lingo, 'stake, bet or wager' are synonymous and refer to the money or other thing or value put up by the parties thereto with the understanding that one or the other gets the whole for nothing but on the turn of a card, the result of a race, or some trick of magic. A 'purse, prize, or premium' has a broader significance. *If offered by one (who in no way competes for it) to the successful contestant in a [feat] of mental or physical skill, it is not generally condemned as gambling*, while if contested for in a game of cards or other games of chance, it is so considered. [Citation omitted.] *It is also banned as gambling if created as in this case by paying admissions to the game, purchasing certificates, or otherwise contributing to a fund from which the 'purse, prize, or premium' contested for is paid, and wherein the winner gains, and the other contestants lose all.*³² [Emphasis added.]

However, in a 1990 opinion, Attorney General Butterworth, again citing *Creash v. State*, determined that a contest of skill (such as a hole-in-one golf contest) "where the contestant pays an entry fee, which *does not make up* (i.e., create) *the prize*, for the opportunity to win a valuable prize by the exercise of skill, *did not violate the gambling laws of [Florida].*"³³ (Emphasis in original.) That 1990 opinion reasoned, "[t]hus, the payment of an entry fee to participate in a contest of skill when the sponsor of the contest does not participate in the contest of skill and where the prize money does not consist of entry fees would *not* appear to be a 'stake, bet or wager'" in violation of s. 849.14, F.S., relating to gambling. (Emphasis added.)³⁴

³¹ *Id.*

³² See *Creash v. State*, 179 So. 149, 152 (Fla. 1938). Because SB 840 requires entry fees (rather than a bet or wager) be paid by fantasy contest participants, the *Creash* case suggests that such fantasy contests do not constitute gaming.

³³ See Fla. AGO 90-58 (Jul. 27 1990) at

<http://www.myfloridalegal.com/ago.nsf/Opinions/DEF7C36F0D75C323852563D2007AA34C> (last visited Jan. 11, 2018).

³⁴ *Id.*

Class III Gaming under the Indian Gaming Regulatory Act

Fantasy contests, if classified as Class III gaming, also could impact the revenue sharing provisions of both the 2010 Gaming Compact³⁵ and the Proposed 2015 Gaming Compact.³⁶ Under both compacts if fantasy contests are a form of new Class III gaming in Florida, payments due to the State under the compacts would cease.³⁷

Gambling on Indian lands is regulated by the Indian Gaming Regulatory Act of 1988 (IGRA).³⁸ The 2010 Gaming Compact authorizes the Seminole Tribe to conduct specified Class III gaming activities at its seven tribal facilities in Florida.³⁹

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.⁴⁰

If fantasy contests are gaming, constitute Class III gaming under federal law, and constitute, under the 2010 Gaming Compact and the Proposed 2015 Gaming Compact, *new* Class III gaming in Florida (i.e., gaming not in operation as of February 1, 2010, or July 1, 2015, respectively), authorizing fantasy contests in Florida (i.e., additional Class III gaming) would violate the exclusivity provisions in the 2010 Gaming Compact and the Proposed 2015 Gaming Compact. As a result, certain revenue sharing requirements would not apply and the Tribe would be authorized to offer similar internet/on-line gaming.

³⁵ See paragraph A of Part XII of the 2010 Gaming Compact at

http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Jan. 11, 2018).

³⁶ See paragraph A of Part XII of the 2015 Gaming Compact at http://www.flsenate.gov/PublishedContent/Committees/2016-2018/RI/Links/2015_Gaming_Compact_Chart_and_Letter_from_Governor_Scott.pdf (last visited Jan. 11, 2018).

³⁷ See paragraph A of Part XII of the 2010 Gaming Compact at pages 39-40 at

http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Jan. 11, 2018).

³⁸ 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.*

³⁹ See paragraph F of Part III of the 2010 Gaming Compact at http://www.flsenate.gov/PublishedContent/Committees/2016-2018/RI/Links/2015_Gaming_Compact_Chart_and_Letter_from_Governor_Scott.pdf (last visited Jan. 11, 2018). The 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 Jan. 11, 2018). See http://www.flsenate.gov/PublishedContent/Committees/2016-2018/RI/Links/2015_Gaming_Compact_Chart_and_Letter_from_Governor_Scott.pdf (last visited Jan. 11, 2018).

⁴⁰ 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.*

In a letter to Senator Travis Hutson and Representative Mike La Rosa dated December 5, 2017,⁴¹ Jim Shore, General Counsel for the Seminole Tribe, indicated:

The Tribe believes the games permitted by these bills [HB 223 and SB 374 (Fantasy Contests), and SB 840 (Gaming)] would violate the Tribe's exclusivity, as set forth in Part XII of the 2010 Gaming Compact between the State and Tribe. By providing this notice, the Tribe hopes to avoid a situation where the State enacts legislation that inadvertently violates the Tribe's exclusivity. That said, the Tribe and the State have discussed the issue of fantasy sports contests in previous compact negotiations and the Tribe remains willing to do so now. However, federal law requires that any reduction in the Tribe's exclusivity must be balanced by some additional consideration from the State. Without such an agreement, the 2010 Gaming Compact would allow the Tribe to cease all revenue sharing payments to the State based on the expanded gaming contemplated by these bills.

The National Indian Gaming Commission (commission) issued an opinion dated March 13, 2001,⁴² relating to a sports betting game proposed for future play in Arizona and California via the Internet. In that sports betting game, players could wager upon various sporting *events*, including NFL football, baseball, golf, and the Olympics. The commission determined that game to be Class III gaming because it was not included within the definitions of Class I or Class II gaming under IGRA.

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),⁴³ which provides 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.⁴⁴

The prohibited activity is generally known as "sports betting." Governmental entities are also prohibited from licensing such activities or authorizing them by law or compact.⁴⁵ However,

⁴¹ See Letter from Jim Shore, General Counsel for the Seminole Tribe, to Senator Travis Hutson and Representative La Rosa (Dec. 5, 2017) (on file with the Senate Committee on Regulated Industries).

⁴² See <https://www.nigc.gov/images/uploads/game-opinions/WIN%20Sports%20Betting%20Game-Class%20III.pdf> (last visited Jan. 11, 2018).

⁴³ See 28 U.S.C. ss. 3701-3704 (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Jan. 11, 2018).

⁴⁴ See 28 U.S.C. s. 3702 (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Jan. 11, 2018).

⁴⁵ *Id.*

PASPA does not apply to pari-mutuel animal racing or jai alai games.⁴⁶ It does not apply to a lottery, sweepstakes, or other betting, gambling, or wagering conducted by a governmental entity between January 1, 1976, and August 31, 1990.⁴⁷

The prohibition against sports betting also does not apply to a lottery, sweepstakes, or other betting, gambling, or wagering lawfully conducted, where such activity was authorized by law on October 2, 1991, and was conducted in a state or other governmental entity at any time between September 1, 1989, and October 2, 1991.⁴⁸

In a case pending before the United States Supreme Court, the State of New Jersey has 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.⁴⁹ 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) defend PASPA’s pre-emption of state laws that authorize sports gambling as a valid exercise of congressional power to regulate commerce.⁵⁰ The Court’s decision in the case is anticipated no later than June 29, 2018.

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)⁵¹ was signed into law by President George W. Bush on October 13, 2006.⁵² 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.”⁵³ 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.”⁵⁴

⁴⁶ See 28 U.S.C. s. 3704(a)(4) (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Jan. 11, 2018).

⁴⁷ See 28 U.S.C. s. 3704(a)(1) (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Jan. 11, 2018).

⁴⁸ See 28 U.S.C. s. 3704(a)(2) (2015), at <https://www.govinfo.gov/content/pkg/USCODE-2015-title28/html/USCODE-2015-title28.htm> (last visited Jan. 11, 2018).

⁴⁹ See *Christie v. National Collegiate Athletic Association*, Docket No. 16-476, (*Christie*) at <http://www.scotusblog.com/case-files/cases/christie-v-national-collegiate-athletic-association-2/> (last visited Jan. 11, 2018). Oral argument in the case was held on December 4, 2017.

⁵⁰ See the respondents’ Brief in Opposition at <http://www.scotusblog.com/wp-content/uploads/2016/12/16-476-16-477-BIO.pdf> at page 17 (last visited Jan. 11, 2018).

⁵¹ See <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title31/pdf/USCODE-2011-title31-subtitleIV-chap53.pdf>, (UIGEA online) at page 46 (last visited Jan. 11, 2018).

⁵² 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.”

⁵³ See 31 U.S.C. s. 5361(a)(4), (UIGEA online), at page 46.

⁵⁴ See 31 U.S.C. s. 5361(b).

“Unlawful internet gambling” prohibited by UIGEA includes the placement, receipt, or transmission of certain bets or wagers.⁵⁵ 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;
- 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.”⁵⁶

While UIGEA excludes bets or wagers of participants in certain fantasy sports games and contests,⁵⁷ it does not, however, authorize fantasy contests and activities in Florida.

Effect of Proposed Changes:

Section 1 of the bill creates s. 546.13, F.S., to authorize certain fantasy contests in which participants must pay an entry fee. Section 546.13(1), F.S., provides requirements for fantasy contests and associated definitions.

“Entry fee” means cash or a cash equivalent required to be paid by a person for the ability to participate in a fantasy contest offered by a fantasy contest operator.

“Fantasy contest operator” means a person or entity, including any employee or agent, that offers fantasy contests with an entry fee for a cash prize, but is not a participant in the fantasy contest. The term does not include an individual who serves as the commissioner of no more than 10 fantasy contests in a calendar year. The term “commissioner” is not defined in the bill, but has been used in the context of fantasy baseball leagues to denote a person who manages a fantasy baseball league, establishes league rules, resolves disputes over rule interpretations, and publishes league standings or selects the Internet service for publication of league standings.⁵⁸

A “fantasy contest” is a fantasy or simulated game in which:

- The value of all prizes and awards offered to winning participants must be established and disclosed to the participants in advance of the contest;

⁵⁵ See 31 U.S.C. s. 5362(10), [UIGEA online](#), at page 48.

⁵⁶ See 31 U.S.C. s. 5362(E)(ix), [UIGEA online](#), at page 47.

⁵⁷ *Id.*

⁵⁸ 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 Jan. 11, 2018).

- All winning outcomes reflect the relative knowledge and skill of contest participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events; and
- No winning outcome is based:
 - On the score, point spread, or any performance or performances of any single actual team or combination of teams;
 - Solely on any single performance of an individual athlete or player in any single actual event; or
 - On the performances of participants in collegiate, high schools, or youth sporting events.

The bill provides that the Department of Business and Professional Regulation (DBPR) may not regulate and the offenses in ss. 849.01, 849.08, 849.09, 849.11, 849.14, or 849.25, F.S., relating to gambling, lotteries, games of chance, contests of skill, or bookmaking do not apply to a fantasy contest operated or conducted by:

- A fantasy contest operator; or
- A natural person who is a participant in the fantasy contest, serves as the commissioner of not more than ten contests in a calendar year, and distributes all contest entry fees as prizes or awards to the participants in that fantasy contest.

Regulation of Pari-Mutuel Wagering

Present Situation:

Pari-mutuel wagering is regulated by the Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR). 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 10 license suspensions, and \$107,655 in fines assessed for violations of all pari-mutuel statutes and administrative rules in Fiscal Year 2015-2016.⁵⁹

⁵⁹ See the 85th Annual Report for Fiscal Year 2015-2016 (the most current report) issued by the division *available at* <http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2015-2016--85th--20170125.pdf> (last visited Jan. 11, 2018) at page 5 (equivalent to page 3 of the printed Annual Report).

According to the latest information available from the DBPR, as of February 2017, there were 39 pari-mutuel permitholders with operating licenses⁶⁰ in Florida, operating at 12 greyhound tracks, six jai alai frontons, five quarter horse tracks, three thoroughbred tracks, and one harness track.⁶¹ One jai alai permitholder voluntarily relinquished its permit in 2016.⁶² Jai alai games were conducted pursuant to a new permitholder license beginning in June 2017 at a new jai alai fronton in Florida City (Miami-Dade County).⁶³

Of the 19 greyhound racing permitholders with operating licenses during Fiscal Year 2016-2017, six permitholders conducted races at leased facilities.⁶⁴ Five pari-mutuel facilities have two permits operating at those locations.⁶⁵ One greyhound racing permitholder's operating license was suspended late in 2014.⁶⁶

There are 11 permitholders that do not have operating licenses for Fiscal Year 2017-2018: two greyhound,⁶⁷ three jai alai,⁶⁸ one limited thoroughbred,⁶⁹ and five quarter horse.⁷⁰

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:

⁶⁰ See Pari-Mutuel Wagering Permitholders With 2016-2017 Operating Licenses map dated Feb. 10, 2017, (on file with Senate Committee on Regulated Industries).

⁶¹ *Id.*

⁶² *Id.* at page 8 (equivalent to page 6 of the printed Annual Report), and see the Stipulation and Consent Order, available at <http://www.floridagamingwatch.com/wp-content/uploads/Hamilton-Jai-Alai-Consent-Order.pdf> (last visited Jan. 11, 2018).

⁶³ See <http://www.myfloridalicense.com/dbpr/pmw/documents/Licenses/2017-2018-j/284--License--KingsCourtKey--2017-2018--2017-03-15.pdf> (last visited Jan. 11, 2018).

⁶⁴ According to information in the 2015-2016 Annual Report from the Division of Pari-Mutuel Wagering, available at <http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2015-2016--85th--20170125.pdf>, at pp. 29 - 33 of the online Annual Report (equivalent to pp. 25 - 29 the printed Annual Report), (last visited Jan. 11, 2018), both Jacksonville Kennel Club and Bayard Raceways (St. Johns Greyhound Park) conduct races at Orange Park Kennel Club; H&T Gaming conducts racing at Mardi Gras; Palm Beach Greyhound Racing conducts racing at Palm Beach Kennel Club; Tampa Greyhound conducts races at St. Petersburg Kennel Club (Derby Lane); West Volusia Racing conducts races at Daytona Beach Kennel Club; Dania Summer Ja Alai conducts games at Dania Jai Alai; Tropical Park conducts races at Gulfstream Park.

⁶⁵ The division indicated that H & T Gaming @ Mardi Gras and Mardi Gras operate at a facility in Hallandale Beach, Daytona Beach Kennel Club and West Volusia Racing-Daytona operate at a facility in Daytona Beach, Palm Beach Kennel Club and License Acquisitions-Palm Beach operate at a facility in West Palm Beach, Miami Jai Alai and Summer Jai Alai operate at a facility in Miami, and Sanford-Orlando Kennel Club and Penn Sanford at SOKC operate at a facility in Longwood.

⁶⁶ See <http://www.myfloridalicense.com/dbpr/pmw/documents/CurrentPermitholdersList.pdf> (last visited Jan. 11, 2018) for a list of current permitholders and their licensing status. For information about permitholders for Fiscal Years 2013-2014, 2014-2015, and 2015-2016, see <http://www.myfloridalicense.com/dbpr/pmw/track.html> (last visited Jan. 11, 2018).

⁶⁷ Jefferson County Kennel Club (Monticello) and North American Racing Association (Key West).

⁶⁸ Gadsden Jai-alai (Chattahoochee), Tampa Jai Alai, and West Flagler Associates (Miami).

⁶⁹ 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), and Ocala Thoroughbred Racing (Marion County).

⁷⁰ 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).

- The name of the permit holder;
- 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.

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.⁷¹

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.⁷²

The Definition of a “Full Schedule of Live Racing or Games”

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

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

⁷¹ See s. 550.054(2), F.S.

⁷² See s. 550.054(9)(a), F.S.

performances, in Fiscal Year 2011-2012 and Fiscal Year 2012-2013, . . . at least 30 live regular wagering performances, and for every fiscal year after Fiscal Year 2012-2013, . . . at least 40 live regular wagering performances;

- For a quarter horse permitholder leasing another licensed racetrack, the conduct of 160 events at the leased facility;
- For a thoroughbred permitholder, the conduct of at least 40 live regular wagering performances during the preceding year; and
- For a permitholder restricted by statute to certain operating periods within the year when other similar permitholders are authorized to operate throughout the year, the specified number of live performances which constitute a full schedule of live racing or games is calculated pro rata based on the authorized operating period and the full calendar year, and the resulting number of live performances is the full schedule of live games for such permitholder and all other permitholders of the same class within 100 air miles of such permitholder.⁷³

A “performance” is a minimum of eight consecutive live races.⁷⁴ At least three live performances must be held at a track each week.⁷⁵ When a permitholder conducts at least three live performances in a week,⁷⁶ it must pay purses (cash prizes to participants) on wagers accepted at the track on certain greyhound races run at other tracks (in Florida or elsewhere).⁷⁷ In order to receive an operating license, permitholders must have conducted a full schedule of live racing during the preceding year.⁷⁸

If a permitholder does not conduct all of the performances specified in its operating license, the division may determine whether to fine the permitholder or suspend⁷⁹ the license, unless the failure is due to certain events beyond the permitholder’s control. Financial hardship itself is not an acceptable basis to avoid a fine or suspension.⁸⁰

The conduct of a full schedule of live racing or games is a condition of licensure for a slot machine licensee,⁸¹ and the conduct of a minimum number of live races is a condition of renewal for a cardroom license.⁸²

⁷³ See s. 550.002(11), F.S.

⁷⁴ Section 550.002(25), F.S.

⁷⁵ Section 550.002(11), F.S.

⁷⁶ The performances may be during the day or in the evenings, as set forth in the schedule that is part of the operating license issued by the division.

⁷⁷ Section 550.09514(2)(c), F.S.

⁷⁸ Section 550.002(11), F.S. In accordance with s. 550.002(38), F.S., a full schedule of live racing is calculated from July 1 to June 30, the state fiscal year.

⁷⁹ After Jefferson County Kennel Club failed to conduct scheduled performances, its operating license was suspended September 22, 2014 under a consent order *available at*

http://www.myfloridalicense.com/dbpr/pmw/documents/Licenses/PMW--ConsentOrder--JEFFERSON_COUNTY_KENNEL_CLUB_INC--146--2014-09-23--20141023.pdf (last visited Jan. 11, 2018).

⁸⁰ Section 550.01215(4), F.S.

⁸¹ Section 551.104(4)(c), F.S.

⁸² Section. 849.086(5)(b), F.S.

*Effect of Proposed Changes:***License Applications by Permitholders and Decoupling**

Section 2 of the bill amends s. 550.01215, F.S., dealing with operating license applications filed annually with the division by pari-mutuel permitholders for licenses for the next fiscal year (July 1 through June 30).

In general, permitholders, including those that do not conduct live performances, are required to file an application for a license to conduct pari-mutuel wagering, including intertrack wagering and simulcast wagering. Permitholders accepting wagers on intertrack and simulcast events are required to disclose the dates of all those events in their license application. For the 2018-2019 Fiscal Year only, the division may approve changes in racing dates for permitholders, if the requests are received before May 31, 2018.

Greyhound Racing Permitholders

Certain greyhound racing permitholders⁸³ are authorized to specify in their operating license applications that they will not conduct live racing or will conduct less than a full schedule of live racing or games (i.e., decouple), while they continue to operate their licensed slot machine facilities and/or cardrooms, if any, pursuant to ch. 551, F.S., and s. 849.086, F.S., as amended by the bill.

Decoupled greyhound permitholders retain their pari-mutuel permits, are pari-mutuel facilities as defined in s. 550.002(23), and remain eligible, but not required, to be a guest track for purposes of intertrack wagering and simulcasting.

Thoroughbred Horse Racing Permitholders

Thoroughbred horse racing permitholders that have conducted live racing for at least five years may discontinue live racing (i.e., decouple), if the permitholder irrevocably elects to discontinue live racing during the 30-day period after the effective date of the bill.

A thoroughbred horse racing permitholder that makes the irrevocable election to decouple may retain its permit, must specify in its future operating license applications that it does not intend to conduct live racing, may retain its permit, is a pari-mutuel facility as defined in s. 550.002(23), F.S., and is eligible, but not required, to be a guest track for purposes of intertrack wagering and simulcasting.

SB 840 specifies the circumstances under which a decoupled thoroughbred horse racing permitholder with a slot machine license may continue to operate its slot machine facility, if any, and cardroom, if any, pursuant to ch. 551, F.S., and s. 849.086, F.S., as amended by the bill. The bill requires a thoroughbred permitholder that has elected to decouple to:

- Comply with all contracts regarding contributions by such permitholder to thoroughbred horse purse supplements or breeders' awards entered into before the effective date of the bill; and

⁸³ Those that conducted a full schedule of live racing for a period of at least 10 consecutive state fiscal years after the state Fiscal Year 1996-1997, or that converted a permit to a permit to conduct greyhound racing after that state fiscal year.

- File with the division, at the time of the election, an irrevocable consent that such contributions be allowed to be used for purses and awards on live races at other thoroughbred horse racing facilities in this state.⁸⁴

Harness Horse Racing and Quarter Horse Racing Permitholders

The bill provides that harness horse racing permitholders and quarter horse racing permitholders that have conducted live racing for at least five years may discontinue live racing (i.e., decouple), if the irrevocable election to discontinue live racing is made during the 30-day period after the effective date of the bill.

A harness horse racing permitholder or quarter horse racing permitholder that makes the irrevocable election to decouple may retain its permit and is a pari-mutuel facility as defined in s. 550.002(23), F.S.

A decoupled harness horse racing permitholder is eligible, but not required, to be a *host* track for purposes of intertrack wagering and simulcasting; a decoupled quarter horse racing permitholder is eligible, but not required, to be a *guest* track for purposes of intertrack wagering and simulcasting.

SB 840 provides that a decoupled harness horse racing permitholder or a decoupled quarter horse racing permitholder may continue to operate its slot machine facility, if any, and cardroom, if any, pursuant to ch. 551, F.S., and s. 849.086, F.S., as amended by the bill.

Slot Machine Gaming and Decoupling

Present Situation:

Chapter 551, F.S., authorizes slot machine gaming at the location of certain licensed pari-mutuel locations in Miami-Dade County or Broward County and provides for state regulation.⁸⁵ Currently eight facilities in Miami-Dade and Broward counties are authorized to operate slot machines. Voters in each county approved slot machine facilities after an amendment to the State Constitution was approved in 2004.⁸⁶

Section 550.475, F.S., allows a pari-mutuel permitholder with a valid permit for the conduct of any jai alai games, greyhound racing, or thoroughbred and harness (Standardbred) horse racing in this state to lease any and all of its facilities to any other permitholder of a same class with a valid permit, when located within a 35-mile radius of each other, and the lessee is entitled to a permit and license to operate its race meet or jai alai games at the leased premises.

⁸⁴ SB 840 provides that these requirements, and the provisions of s. 551.104(10(a)), F.S., relating to mandatory agreements with the Florida Horsemen's Benevolent and Protective Association, Inc. governing the payment of purses on live thoroughbred races, do not apply after December 31, 2020, to a thoroughbred horse racing permitholder that has elected to decouple. See lines 217 to 227 of the bill.

⁸⁵ See ch. 551, F.S., relating to the regulation of slot machine gaming at pari-mutuel locations.

⁸⁶ See FLA. CONST., art. IX, s. 23 (1968).

Effect of Proposed Changes:

Section 3 of the bill revises conditions for licensure and for maintaining continued authority for conducting slot machine gaming to reflect that certain pari-mutuel permitholders are authorized to discontinue conducting live racing or games (i.e., decouple). The bill provides that a permitholder with a slot machine license is authorized to receive an operating license to conduct pari-mutuel wagering activities at another pari-mutuel facility, if the permitholder has operated its live races or games by lease for at least five consecutive years immediately prior to the permitholder's application for a slot machine license; however, the permitholders must be located within 35 miles of each other.⁸⁷

The bill requires a slot machine licensee that chooses not to run a full schedule of live racing or games, (i.e., decouple), to make annual payments for the benefit of live thoroughbred horse racing purses. If a slot machine licensee is not running a full schedule of live racing or games under its pari-mutuel permit, then the licensee must contribute the lesser of \$2 million or three percent of the permitholder's prior fiscal year slots revenue to a slot machine licensee that conducts not fewer than 160 days of thoroughbred racing. A slot machine licensee that receives those funds must remit ten percent of the funds to the Florida Thoroughbred Breeders' Association, Inc., for payment of breeders', stallion, and special racing awards, subject to the fee authorized in s. 550.2625(3), F.S.⁸⁸ If no slot machine licensee is licensed for at least 160 days of live thoroughbred racing, no payments for purses are required. There is a dollar-for-dollar credit for payments made to a horsemen's association under a binding written agreement entered into by the permitholder pursuant to s. 551.104(10), F.S.

Slot Machines Tax Rate Reduction***Present Situation:***

The tax rate on slot machine revenues is 35 percent under s. 550.106(2), F.S. If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade Counties is less than the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine licensee must pay to the state, within 45 days after the end of the state fiscal year, a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year that resulted in the revenue shortfall. All revenue from slot machine gaming is deposited into the Educational Enhancement Trust Fund of the Department of Education.

Effect of Proposed Changes:

Section 4 of the bill amends s. 551.106, F.S., to:

- Reduce the tax rate for slot machine revenues to 30 percent, effective January 1, 2018, and to 25 percent effective July 1, 2019.

⁸⁷ See s. 550.475, F.S., and lines 267 to 285 of the bill.

⁸⁸ Section 550.2625(3), F.S, states the Florida Thoroughbred Breeders' Association has the right to withhold up to 10 percent of a permitholder's payments under that section as a fee for administering the payments of awards and for general promotion of the horse racing industry.

- Require that if, in any year, the aggregate amount of tax paid to the state by slot machine licensees in Broward and Miami-Dade counties which were licensed before January 1, 2017, is less than the amount paid in the 2017-2018 state fiscal year, any of those licensees that paid less in that year than it paid in the 2017-2018 fiscal year must pay a surcharge equal to the difference between the amount of tax it paid in the 2017-18 fiscal year and the amount paid during the applicable state fiscal year.
- Remove obsolete language relative to the slot machine license fee for Fiscal Year 2010-2011.

Cardrooms and Designated Player Games

Present Situation:

Chapter 849, F.S., authorizes cardrooms at certain pari-mutuel facilities.⁸⁹ In Fiscal Year 2017-2018, 25 cardrooms are authorized to operate.⁹⁰ Cardrooms are operated by 14 greyhound permitholders, five jai alai permitholders, one harness horse racing permitholder, three quarter horse racing permitholders, and two thoroughbred racing permitholders.⁹¹ 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.⁹²

Section 849.086, F.S., provides that a licensed pari-mutuel permitholder that holds a valid pari-mutuel permit and license to conduct a full schedule of live racing or games 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.⁹³ Such games must be played in a non-banking manner,⁹⁴ 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 must be used to supplement greyhound purses, and quarter horse permitholders must also have a contract with a horsemen's association governing the payment of purses on live quarter horse races conducted by the permitholder.⁹⁵

⁸⁹ 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.

⁹⁰ See <http://www.myfloridalicense.com/dbpr/pmw/PMW-PermitholderOperatingLicenses--2017-2018.html> (last visited Jan. 11, 2018).

⁹¹ Cardroom locations, by class of permit held are: (1) greyhound racing: Bonita Springs (Lee Co.), Daytona Beach (Volusia Co.), Ebro (Washington Co.), Hallandale Beach (Broward Co.), Melbourne (Brevard Co.), Miami (Miami-Dade Co.) Orange Park (Clay Co.), Pensacola (Escambia Co.), St. Petersburg (Pinellas Co.), and West Palm Beach (Palm Beach. Co.); (2) jai alai: Dania Beach (Broward Co.), Ft. Pierce (St. Lucie Co.), Florida City and Miami (Miami-Dade Co.), and Reddick (Marion Co.); (3) quarter horse: Gretna (Gadsden), Hialeah (Miami-Dade Co.) and Summerfield (Marion Co.); and (4) thoroughbred racing: Hallandale Beach (Broward Co.), and Tampa (Hillsborough Co.).

⁹² 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).

⁹³ See s. 849.086(2)(a), F.S.

⁹⁴ *Id.*

⁹⁵ See s. 849.086(13)(d), F.S.

Renewal of a cardroom license requires that a permitholder must, in its annual pari-mutuel license application, request to conduct at least 90 percent of the performances conducted either (1) in the year in which its first cardroom license was issued, or (2) in the state fiscal year immediately prior to the application if a full schedule of live racing was conducted (“90 percent rule”).⁹⁶ If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing.⁹⁷

Eleven of the 12 greyhound racing locations have cardrooms. As a result of the “90 percent rule,” the required minimum of live performances varies among greyhound racing permitholders, from 93 to 394 performances.⁹⁸

There is only one harness horse racing permitholder, and it has a cardroom. The permitholder must request authorization to conduct a minimum of 140 live performances during the state fiscal year immediately prior to its application for an operating license.⁹⁹ As a result of the “90 percent rule,” the required minimum of live performances for the harness horse racing permitholder is 126 performances.¹⁰⁰

Five of the six jai alai permitholders have cardrooms. As a result of the “90 percent rule,” the required minimum of live performances varies among jai alai permitholders, from 36 to 150 performances.¹⁰¹

Three of the five quarter horse permitholders have cardrooms. As a result of the “90 percent rule,” the required minimum of live performances varies among quarter horse permitholders, from 18 to 40 performances.¹⁰²

Two of the three thoroughbred permitholders have cardrooms. As a result of the “90 percent rule,” the required minimum of live performances varies among thoroughbred racing permitholders, from 40 to 81 performances.¹⁰³

If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing.¹⁰⁴

State Litigation Challenging DBPR’s Administrative Rules Relating to Designated Player Games

In July 2014, the Division of Pari-Mutuel Wagering (division) of the Department of Business and Professional Regulation (DBPR) adopted two administrative rules relating to the play of

⁹⁶ See s. 849.086(5)(b), F.S.

⁹⁷ *Id.*

⁹⁸ Telephone interview with division staff (Jan. 23, 2017).

⁹⁹ See s. 849.086(5)(b), F.S.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ See s. 849.086(5)(b), F.S.

Designated Player Games.¹⁰⁵ Under the rules, a designated player game is not authorized if it is not played in compliance with house rules required to be available for review by players or the division, which must:

- Establish uniform requirements to be a designated player;
- Ensure that the dealer button rotates clockwise around the card table for each hand, so that all players desiring to be a designated player have the opportunity to do so; and
- Not require the designated player to cover all potential wagers.¹⁰⁶

Banking games are defined in current law as those in which the house is a participant.¹⁰⁷ Designated player¹⁰⁸ games, if conducted as defined in Rule 61D-11.002(5), Florida Administrative Code, were not considered by the DBPR to be banking games.

The division pursued additional rulemaking concerning Designated Player Games in September 2014, to “address issues discovered in the implementation and practical application of [the July 2014] cardroom rules.”¹⁰⁹ In October 2015, the division proposed to repeal the rule defining the term “designated player” as “the player identified by the button in the dealer position” and the rule establishing the standards for designated player games.¹¹⁰

The repeal of the rules was challenged by various cardroom operators in December 2015. In August 2016, Administrative Law Judge Gary Early of the Division of Administrative Hearings found:

The evidence is conclusive that, by its repeal of rule 61D-11.002(5), Respondent simply changed its mind as to whether playing with a designated player constituted the establishment of a prohibited banking game. [Footnote omitted.] It previously determined that such games were lawful under the terms of section 849.086 [F.S.]; it has now determined they are not.¹¹¹

Judge Early determined the division:

Has taken divergent views of the statute in a manner that has substantially affected the interests of [cardroom operators]. For [the division] to suggest that its repeal of the rules is a clarification, a simplification, or reflection of the unambiguous terms of the statute, and that [the cardrooms] should just tailor their actions to the statute without any interpretive guidance from [the division], works contrary to the role of government to provide

¹⁰⁵ See Fla. Admin. Code R. 61D-11.001(17) and R. 61D-002(5) (2017) at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61D-11> (last visited Jan. 11, 2018).

¹⁰⁶ *Id.* and see Fla. Admin. Code R. 61D-11.002(3) and (5) (2017).

¹⁰⁷ Section 849.086(2)(b), F.S.

¹⁰⁸ Rule 61D-11.001(17), F.A.C., defines “designated player” as the “player identified by the button as the dealer in the player position.”

¹⁰⁹ See *Dania Entertainment Center, LLC v. Dep’t of Bus. and Prof. Reg., Div. of Pari-mutuel Wagering, (Dania Entertainment)* Case No. 15-7010RP (Fla DOAH 2016) at page 17. at <https://www.doah.state.fl.us/ROS/2015/15007010.pdf> (last visited Jan. 11, 2018).

¹¹⁰ *Id.* at p. 18.

¹¹¹ See *Dania Entertainment* at pp. 24-25.

meaningful and understandable standards for the regulation of business in Florida. [The division] cannot, with little more than a wave and well-wishes, expect regulated businesses to expose themselves to liability through their actions under a statute that is open to more than more one interpretation, when the agency itself has found it problematic to decipher the statute under which it exercises its regulatory authority.¹¹²

In November 2017, the Florida First District Court of Appeal (DCA) affirmed Judge Early's ruling that the proposed repeal of the Designated Player Games rules was invalid.¹¹³ The DCA stated the ruling correctly found that repeal of the rules was a rule itself because it was a change of the DBPR's policy on Designated Player Games¹¹⁴ However, the DCA declined to adopt Judge Early's finding that the division "lacked the authority to either promulgate or to repeal rules" on Designated Player Games, noting that the role of the division "is to provide meaningful and understandable standards for cardrooms, particularly where a statute is ambiguous."¹¹⁵

Federal Litigation Concerning the 2010 Gaming Compact and Banked Card Games (including Player Banked Card Games with a Designated Player)

The State and the Seminole Tribe were parties to litigation in federal court (federal litigation) relating to the offering of table games by the Seminole Tribe after July 31, 2015. Separate lawsuits were filed by each party against the other, and the cases were consolidated. The Seminole Tribe alleged in its complaint that:

- It had authority to conduct banked card games for the 2010 Gaming Compact's full 20-year term; and
- The State breached its duty to negotiate with the Seminole Tribe in good faith.

The State alleged that the Seminole Tribe's:

- Conduct of banked card games violated the 2010 Gaming Compact; and
- Conducting the games violated the Indian Gaming Regulatory Act (IGRA) though this claim was later dropped by the State.

On November 9, 2016, U.S. District Court Judge Robert L. Hinkle issued an Opinion on the Merits, which held the Seminole Tribe may operate banked card games at all seven of its facilities (rather than the five facilities at which banked card games had been allowed since 2010) through the entire 20-year term of the 2010 Gaming Compact (i.e., until 2030) because the State permitted others to offer banked card games (i.e., pari-mutuel cardrooms).¹¹⁶

¹¹² *Id.* at page 25.

¹¹³ See *Dep't of Bus. and Prof. Reg., Div. of Pari-Mutuel Wagering v. Dania Entertainment Center, et al.* 229 So.3d 1259 (Fla. 1st DCA 2017) at https://edca.lzca.org/DCADocs/2016/4275/164275_1284_11082017_08460223_i.pdf (last visited Jan. 11, 2018).

¹¹⁴ *Id.* The DCA also affirmed the finding that the Division of Pari-Mutuel Wagering (division) of the DBPR failed to follow required rulemaking procedures by not preparing a statement of estimated regulatory costs (SERC). *Id.* at pp. 11-12.

¹¹⁵ *Id.* at page 14.

¹¹⁶ See *Seminole Tribe of Florida v. State of Florida*, 219 F.Supp. 3d 1177 (N.D. Fla. Nov. 9, 2016), Case No.: 4:15-cv-516-RH/CAS, Document 103. In addition to the holding as to banked card games, Judge Hinkle held that sovereign immunity barred the court from considering whether the State had failed to negotiate in good faith as to authorizing roulette and craps, and that a ruling on whether electronic forms of blackjack are also a banked card game was unnecessary as that issue was too close to resolve and was not essential to the outcome of the case.

As to the banked card games issue, Judge Hinkle found:

- The 2010 Gaming Compact defines ‘Covered Games’ to include ‘banking or banked card games, including baccarat, chemin de fer, and blackjack (21);’¹¹⁷
- Under s. 849.086, F.S., licensed pari-mutuel facilities may operate cardrooms, but the statute explicitly forbids “banking” card games;¹¹⁸
- Baccarat, chemin de fer, and blackjack are all games in which there is no common pot, and the players do not compete against one another;
- A bank pays the winners and collects from the losers;
- In baccarat and blackjack, the bank is most often a dealer employed by the facility – in effect, the facility itself, commonly denominated the ‘house;’
- In chemin de fer, the bank is always one of the players; and
- Under the 2010 Gaming Compact and [Indian Game Regulatory Act], banked games include both house banked games and player-banked games.¹¹⁹

Section 849.086(2)(b), F.S., defines a ‘banking game’ as a game in which:

- [1] the house is a participant in the game, taking on players, paying winners, and collecting from losers; or
- [2] the cardroom establishes a bank against which participants play.

The court found that:

- The first part of the definition in [1] describes a house banked game, one played in the manner that is typical for blackjack and baccarat;
- The second part of the definition in [2] describes a game banked by anyone else, including a player; that is, a game played in the manner of chemin de fer;¹²⁰
- When the cardroom devises and runs the game and sets the rules, including the requirement that a player act as the bank, the cardroom ‘establishes’ a bank;
- Florida law does not state that a game that is not ‘banked’ when the bank is a player rather than the house;
- There were no player-banked card games at pari-mutuel cardrooms when the parties entered into the 2010 Gaming Compact;
- The parties did not expect the Seminole Tribe to have to compete against such games; and
- The DBPR permitted cardrooms to conduct banked games as early as 2011, formally approved the practice by adopting a rule in 2014, continues to permit the games, and asserts the rule is currently valid.

¹¹⁷ *Id.* at pp. 4-5.

¹¹⁸ *Id.* at p. 5, and *see* s. 849.086(12)(a), F.S. The court further held “[b]ecause of this statute, the Tribe’s authority under the Compact to conduct banked card games afforded the Tribe the right to conduct bank card games without competition from cardrooms. This was perhaps the most important benefit the Tribe obtained under the Compact. **The most important benefit to the State was more than a billion dollars.** Because IGRA prohibits a state from receiving a share of a tribe’s gaming revenue except to defray expenses or in exchange for a benefit conferred on the tribe, **the Tribe’s billion-dollars-plus payments to the State under the Compact were justified in large part as compensation for the exclusive right to conduct banked card games** – exclusive, that is, except for any competition from other tribes or other types of games.” *Id.* at pp. 5-6. (Emphasis added.)

¹¹⁹ *See Seminole Tribe of Florida v. State of Florida*, Case No.: 4:15-cv-516-RH/CAS (U.S.D.C. N.D. Fla.), Document 103, filed Nov. 9, 2016, at p. 9.

¹²⁰ *Id.* at p. 10.

Because of the finding that others had been allowed to conduct banked card games, the court found that the 2010 Gaming Compact allows the Seminole Tribe to conduct banked card games at all seven of its gaming facilities, for the Compact's full 20-year term (through July 31, 2030).¹²¹

Settlement of the Federal Litigation and Establishment of Forbearance Period

After the DBPR's appeal of Judge Hinkle's decision,¹²² the Seminole Tribe and the DBPR entered into a Settlement Agreement and Stipulation (2017 Settlement) on July 5, 2017.¹²³ The parties agreed to undertake certain actions.

The State agreed to dismiss the pending appeal, and, upon issuance of the final order of dismissal of the appeal, the Seminole Tribe agreed to release the State from all claims by the Tribe for past Revenue Share Payments,¹²⁴ based on the operation of player-banked games which use a designated player (Designated Player Games) or electronic forms of blackjack (Electronic Table Games) in Florida. The State and the Seminole Tribe also agreed that the findings of fact and conclusions of law in Judge Hinkle's decision are binding on the parties.¹²⁵

The Seminole Tribe also agreed it would not seek the return of funds associated with tribal gaming paid to and segregated by the State during the pendency of the federal litigation, granting the State unencumbered use of the segregated funds.¹²⁶

As to the continued operation of banked card games (i.e., Designated Player Games operated as described in Judge Hinkle's decision), the Seminole Tribe agreed to delay taking certain actions until after the last day of the month that the Legislature adjourns¹²⁷ its 2018 legislative session (the Forbearance Period). The Seminole Tribe agreed not to:

- Suspend Revenue Share Payments; or
- Deposit Revenue Share Payments into an escrow account in accordance with Part XII of the 2010 Gaming Compact.

The Seminole Tribe also agreed not to initiate an action asserting that it is entitled, based on the continued operation of Designated Player Games or Electronic Table Games in the State, to

¹²¹ *Id.* at p. 19, and see Judgment issued in *Seminole Tribe of Florida v. State of Florida*, Case No.: 4:15-cv-516-RH/CAS (U.S.D.C. N.D. Fla.), Document 104, filed Nov. 16, 2016, at p. 1.

¹²² See *Seminole Tribe of Florida v. State of Florida*, 219 F.Supp. 3d 1177 (N.D. Fla. Jan. 19, 2017), Case No.: 4:15-cv-516-RH/CAS, Document 120.

¹²³ See Settlement Agreement and Stipulation (2017 Settlement) (July 5, 2017) (on file with the Senate Committee on Regulated Industries).

¹²⁴ Revenue Share Payments are the periodic payments to the State by the Seminole Tribe, based on the Tribe's Net Win. Net Win is defined as total receipts from the play of authorized tribal gaming in Florida, less all prizes, free play, or promotional credits. See paragraphs U and X of Part III of the 2010 Gaming Compact at page 11 at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Jan. 11, 2018).

¹²⁵ See 2017 Settlement at page 8.

¹²⁶ See the 2017 Settlement at page 6.

¹²⁷ Should the 2018 legislative session be adjourned as anticipated on March 9, 2018, the Forbearance Period will end on March 31, 2018.

deposit Revenue Share Payments into an escrow account in accordance with Part XII of the 2010 Gaming Compact, provided:

the State takes aggressive enforcement action [Aggressive Enforcement Requirement] against the continued operation of banked card games, including Designated Player Games that are operated in a banked game manner, as described in [Judge Hinkle's decision], and no other violations of the Tribe's exclusivity occur during the Forbearance Period.¹²⁸

The Aggressive Enforcement Requirement is also imposed upon the State respecting Revenue Share Payments made by the Seminole Tribe during the Forbearance Period. The deposit of such payments into the General Revenue Fund, allowing unencumbered use by the State without the Seminole Tribe seeking the return of such payments, is contingent upon meeting the Aggressive Enforcement Requirement.¹²⁹

The 2017 Settlement does not define the term "aggressive enforcement action." Subsequent to the Settlement, the DBPR filed five administrative complaints against cardroom operators alleging the violation of s. 849.086(12)(a), F.S., due to the operation of a banking game or a game not specifically authorized by Florida law.¹³⁰ In each case, the parties have temporarily delayed pursuit of administrative hearings in favor of informal conferences to resolve the pending enforcement actions.¹³¹

The Gaming Compacts

Authorization of Designated Player Games in Florida (i.e., player banked card games with a designated player) could impact the revenue sharing provisions of the 2010 Gaming Compact¹³² (as well as the Proposed 2015 Gaming Compact).¹³³ Judge Hinkle found designated player games to be banked card games, a form of Class III gaming. The Settlement Agreement that the State entered with the Seminole Tribe provides that Judge Hinkle's findings of fact and conclusions of law are binding on the State and the Seminole Tribe. Accordingly, payments due to the State under the 2010 Compact could cease.¹³⁴

¹²⁸ The Seminole Tribe agreed to follow the process set forth in paragraph A of Part XII of the 2010 Gaming Compact, to address any new violation of the Tribe's exclusivity occurring during the Forbearance Period, due to a court decision or administrative agency ruling or decision. *See* the 2017 Settlement at page 7.

¹²⁹ *See* the 2017 Settlement at page 7.

¹³⁰ The respondent, filing date, and DBPR Case No. for each complaint are: 1) Pensacola Greyhound Park, LLP (8.17.2017; Case No. 2017-040490); 2) Sarasota Kennel Club, Inc. (8.24.2017; Case No. 2017-041784); 3) Tampa Bay Downs, Inc. (9.15.2017; Case No. 2017-044518); 4) Dania Entertainment Center, LLC (9.25.2017; Case No. 2017-045538); and 5) Investment Corporation of Palm Beach (10.25.2017; Case No. 2017-050956) (on file with the Committee on Regulated Industries).

¹³¹ E-mail from J. Morris, Legislative Affairs Director, DBPR, to R. McSwain, Staff Director, Committee on Regulated Industries (Nov. 2, 2017) (on file with the Committee on Regulated Industries).

¹³² *See* paragraph A of Part XII of the 2010 Gaming Compact at <http://www.flsenate.gov/. . .RI/Links/Gaming Compact between The Seminole Tribe of Florida and the State of Florida.pdf> (last visited Jan. 11, 2018).

¹³³ *See* paragraph A of Part XII of the 2015 Gaming Compact at <http://www.flsenate.gov/. . .Proposed 2015 Gaming Compact, Comparison Chart, and Letter from Governor Scott.pdf> (last visited Jan. 11, 2018).

¹³⁴ *See* paragraph A of Part XII of the 2010 Gaming Compact at pages 39-40 at <http://www.myfloridalicense.com/dbpr/pmw/documents/2010 Compact-Signed1.pdf> (last visited Jan. 11, 2018).

Additionally, the Tribe would also be authorized to offer Designated Player Games, because each compact provides the Tribe is authorized to offer “any new game authorized by Florida law for any person for any purpose.”¹³⁵

Effect of Proposed Changes:

Section 5 of the bill amends s. 849.086, F.S., to:

- Provide that a Designated Player Game is not a banking game, and that a designated player is the player in the dealer position seated at a traditional player position who pays winning players and collects from losing players.
- Define “Designated Player Game” as “a game in which the players compare their cards only to the cards of the designated player or to a combination of cards held by the designated player and cards common and available for play by all players.”
- Repeal the “90 percent rule” in existing law mandating the minimum number of races that must be conducted by a permitholder to renew a cardroom license.
- Require that a permitholder conducting less than a full schedule of live racing or games have a contract with a thoroughbred permitholder that conducts live racing and does not possess a slot machine gaming license under which the (decoupled) permitholder will pay four percent of gross cardroom receipts to the thoroughbred permitholder for use as purses during its next racing meet. A thoroughbred racing permitholder receiving those funds must pay ten percent of the funds to the Florida Thoroughbred Breeders’ Association, Inc., for the payment of breeders’, stallion, and special racing awards, subject to the fee authorized in s. 550.2625(3), F.S.
- Require the division to respond to requests from a licensed cardroom within 45 days for approval of a cardroom’s internal controls or the rules for a new authorized game, or provide a list of deficiencies. The division has ten days after receipt of revised internal controls or rules for a new game addressing the deficiencies identified by the division to approve or reject the revised internal controls or rules.¹³⁶
- Authorize cardroom operators to offer Designated Player Games, at not more than 50 percent of the total licensed tables in a cardroom.
- Provide a cardroom operator may not serve as a designated player but may collect a table rake as posted at the table.
- Provide, if there are multiple designated players at a table, the dealer button must be rotated clockwise after each hand.
- Provide that a cardroom operator may not allow a designated player to pay an opposing player who holds a lower ranked hand.
- Provide that any designated player may not be required by the rules of a game or by the rules of a cardroom to cover more than 10 times the maximum wager for opposing players.

¹³⁵ See subparagraph 4 of paragraph F of Part III of the 2010 Gaming Compact at page 4 at http://www.myfloridalicense.com/dbpr/pm/w/documents/2010_Compact-Signed1.pdf (last visited Jan. 11, 2018) and see subparagraph 5 of paragraph G of Part XII of the 2015 Gaming Compact at <http://www.flsenate.gov/. . . Proposed 2015 Gaming Compact, Comparison Chart, and Letter from Governor Scott.pdf> (last visited Jan. 1, 2018).

¹³⁶ According to the DBPR’s Office of General Counsel, the terms “requests from a licensed cardroom” and “submission” in the bill “may create ambiguity in their application.” See *2018 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation)* for SB 840, dated Jan. 9, 2018 (on file with Senate Committee on Regulated Industries) at page 8.

- Prohibit a cardroom, or any cardroom licensee, from contracting for or receiving compensation other than a posted table rake from any player to participate in any game to serve as a designated player.
- Require employees of a designated player be licensed, and a designated player pay, in addition to the cardroom business occupational fee, an employee occupational fee which may not exceed \$500.00 per employee annually.

Effective Date

SB 840 is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Fantasy Contests

None.

Pari-Mutuel Decoupling

The ending of live racing will reduce required daily license fees and taxes on wagering paid by pari-mutuel permitholders that decouple. According to the Department of Business and Professional Regulation (DBPR), the fiscal impact to state government revenues is indeterminate, and anticipates the Revenue Estimating Conference may assess the impact due to the multiple variables in SB 840.¹³⁷

Purse Supplements by Decoupled Slot Machine Licensees

None.

Slot Machine Tax Rate Reduction

None.

¹³⁷ See 2018 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 840, dated Jan. 9, 2018 (on file with Senate Committee on Regulated Industries) at page 6.

Authorization of Designated Player Games

None.

B. Private Sector Impact:

SB 840 authorizes certain fantasy contests to be offered by fantasy contest operators, who will retain amounts participants pay as entry fees to participate in fantasy contests. Persons who pay entry fees to participate in fantasy contests have the opportunity to win prizes and awards.

The ending of live racing will reduce required daily license fees and taxes on wagering paid by pari-mutuel permitholders that decouple.

SB 840 reduces the tax rate on slot machine gaming revenue effective January 1, 2019, but also requires that the existing Broward and Miami-Dade slot machine facilities pay, in each year, at least as much as they paid in Fiscal Year 2017-2018.

As to Designated Player Games, the bill:

- Provides a Designated Player Game is not a banking game;
- Sets requirements and limitations for a Designated Player Game.
- Limits the number of Designated Player Game tables in a cardroom to not more than 50 percent of the cardroom's total licensed tables.
- Grants additional rulemaking authority to the DBPR's Division of Pari-Mutuel Wagering (division) relating to requests from licensed cardrooms and imposes deadlines for response by the division to submissions by cardroom licensees relating to rules for new authorized games, revisions to internal controls, and revisions to rules for games.

C. Government Sector Impact:

SB 840 could significantly impact the Revenue Share Payments¹³⁸ required to be paid by the Seminole Tribe of Florida under the 2010 Gaming Compact.

The Revenue Estimating Conference (REC) estimates that the revenue that will be received from the Seminole Tribe associated with the 2010 Gaming Compact during Fiscal Year 2017-2018 will be \$276 million, of which \$272 million will accrue to the General Revenue Fund and \$3.5 million will be distributed to local governments as required by s. 285.710(10), F.S. During Fiscal Year 2018-2019, the REC estimates revenue associated with the 2010 Gaming Compact will be \$288.6 million, of which \$280.1 million will accrue to the General Revenue Fund and \$8.6 million will be

¹³⁸ Revenue Share Payments are the periodic payments to the State by the Seminole Tribe, based on the Tribe's Net Win. Net Win is defined as total receipts from the play of authorized tribal gaming in Florida, less all prizes, free play, or promotional credits. See paragraphs U and X of Part III of the 2010 Gaming Compact at page 11 at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Jan. 11, 2018).

distributed to local governments. The REC estimates the revenue associated with the 2010 Gaming Compact will increase to \$307 million for Fiscal Year 2025-2026.¹³⁹

The REC currently classifies all future Revenue Share Payments to be paid by the Seminole Tribe to the State as nonrecurring revenue because the terms of the Settlement Agreement and Stipulation entered on July 5, 2017, by the Seminole Tribe and the Department of Business and Professional Regulation on behalf of the State,¹⁴⁰ required the parties to take certain actions “that cannot be anticipated with sufficient certainty.”¹⁴¹

Fantasy Contests

If fantasy contests permitted under the bill constitute gaming, are considered Class III gaming under federal law, and constitute, under the 2010 Gaming Compact, *new* Class III gaming in Florida, the payments due to the State under the 2010 Gaming Compact could end when fantasy contests begin to be offered for public or private use.¹⁴²

In a letter to Senator Travis Hutson and Representative Mike La Rosa dated December 5, 2017,¹⁴³ Jim Shore, General Counsel for the Seminole Tribe, indicated the Tribe believes the games permitted by HB 223 and SB 374 (Fantasy Contests), and SB 840 (Gaming) would violate the Tribe’s exclusivity, as set forth in Part XII of the 2010 Gaming Compact between the State and Tribe. The stated purpose of the letter was to avoid enactment of legislation “that inadvertently violates the Tribe’s exclusivity.” Mr. Shore noted “federal law requires that any reduction in the Tribe’s exclusivity must be balanced by some additional consideration from the State[, and] without such an agreement, the 2010 Gaming Compact would allow the Tribe to cease all revenue sharing payments to the State based on the expanded gaming contemplated by the referenced bills.”

Pari-Mutuel Decoupling

SB 840 authorizes greyhound racing, harness horse racing, quarter horse racing, and thoroughbred racing permitholders to stop conducting live racing while retaining intertrack and simulcast wagering, cardrooms, and, where relevant, slot machine facilities. The ending of live racing will reduce daily license fees and taxes on wagering payable by pari-mutuel permitholders that decouple. The Revenue Estimating Conference has not analyzed this bill, nor the impacts of ending live racing by greyhound racing

¹³⁹ See the estimates for multiple fiscal years in the *Conference Results, Indian Gaming Revenues* at <http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingResults.pdf> (last visited Jan. 11, 2018).

¹⁴⁰ See Settlement Agreement and Stipulation (2017 Settlement) (July 5, 2017) (on file with the Senate Committee on Regulated Industries).

¹⁴¹ See *Revenue Estimating Conference, Indian Gaming Revenues, Executive Summary* at <http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf> (last visited Nov. 27, 2017).

¹⁴² See paragraph A of Part XII of the 2010 Gaming Compact at pages 39-40 at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Jan. 11, 2018); the Revenue Share Payments and the required annual donation of \$750,000 to the Florida Council on Compulsive Gaming must resume when the new Class III gaming is no longer operated.

¹⁴³ See Letter from Jim Shore, General Counsel for the Seminole Tribe, to Senator Travis Hutson and Representative La Rosa (Dec. 5, 2017) (on file with the Senate Committee on Regulated Industries).

permitholders and the various horse racing permitholders in the manner provided in the bill.

According to the Department of Business and Professional Regulation (DBPR), expenditures for licensing and sample collection may be reduced at permitholder facilities that choose to end live racing.¹⁴⁴ The DBPR's Office of General Counsel notes that rulemaking will be necessary to address revisions to permit and license application forms, as well as additional forms relating to the ending of live racing.¹⁴⁵

Slot Machine Tax Rate Reduction

SB 840 provides for a slot machine tax rate reduction, which takes effect on January 1, 2019, combined with a requirement that the existing Broward and Miami-Dade slot machine facilities pay, in each year, at least as much as they paid in Fiscal Year 2017-2018. Therefore, the impact of the tax reduction upon General Revenue should be neutral.

Authorization of Designated Player Games

Authorization of player banked card games with a designated player, which were determined to be Class III gaming in federal litigation between the State of Florida and the Seminole Tribe of Florida, could impact the revenue sharing provisions of the 2010 Gaming Compact, as payments due to the State under the compact could cease.¹⁴⁶

VI. Technical Deficiencies:

SB 840 authorizes certain permitholders to end live racing while retaining their licenses to conduct slot machine gaming and operate cardrooms. A reference to "harness horse racing permitholders and quarter horse racing permitholders" is omitted from the list of the types of permitholders that may choose to end live racing, as authorized in **Section 2** of the bill, creating inconsistency with the remaining provisions of the bill. *See* line 156 of the bill.

At lines 275 and 288, the bill cross-references paragraphs (b) and (c) of s. 550.01215(1), F.S., (provisions created by the bill on decoupling by greyhound racing permitholders and thoroughbred horse racing permitholders) in connection with the requirements for a slot machine license. An amendment should be considered at those lines to also include a cross-reference to paragraph (d) of s. 550.01215(1), F.S., relating to decoupling by harness horse racing permitholders and quarter horse racing permitholders. A similar reference to paragraph (d) of s. 550.01215(1), F.S., is included at line 613 in connection with the requirements for a cardroom license by decoupled greyhound racing, thoroughbred horse racing, harness horse racing, and quarter horse racing permitholders.

¹⁴⁴ *See 2018 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 840, dated Jan. 9, 2018 (on file with Senate Committee on Regulated Industries) at page 6.*

¹⁴⁵ *Id.* at page 8.

¹⁴⁶ *See* paragraph A of Part XII of the 2010 Gaming Compact at pages 39-40 at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Jan. 11, 2018).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 550.01215, 551.104, 551.106, and 849.086.

This bill creates section 546.13 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.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 840
FINAL ACTION: Favorable
MEETING DATE: Wednesday, January 17, 2018
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE		SENATORS	1/17/2018 ¹ Amendment 831572		1/17/2018 ² Amendment 439272		1/17/2018 ³ Motion to change vote to "NAY" after Roll Call	
					Steube		Gibson	
Yea	Nay		Hutson Yea	Hutson Nay	Yea	Nay	Yea	Nay
X		Benacquisto						
X		Bracy						
X		Brandes						
X		Braynon						
	VC	Gibson						
	X	Steube						
X		Thurston						
X		Young						
		Hukill, VICE CHAIR						
X		Hutson, CHAIR						
7	2		-	WD	-	WD	FAV	-
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



831572

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/17/2018	.	
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The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 156 - 290

and insert:

racine permitholders, jai alai permitholders, harness horse racing permitholders, quarter horse racing permitholders, and thoroughbred horse racing permitholders that do not ~~to~~ conduct live 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~~



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11 the permitholder intends to conduct. It must ~~shall~~ also specify
12 which performances will be conducted as charity or scholarship
13 performances.

14 (a) In addition, Each application for an operating a
15 license also must ~~shall~~ include:7

16 1. For each permitholder, whether the permitholder intends
17 to accept wagers on intertrack or simulcast events.

18 2. For each permitholder that elects ~~which elects~~ to
19 operate a cardroom, the dates and periods of operation the
20 permitholder intends to operate the cardroom. ~~or,~~

21 3. For each thoroughbred racing permitholder that ~~which~~
22 elects to receive or rebroadcast out-of-state races after 7
23 p.m., the dates for all performances which the permitholder
24 intends to conduct.

25 (b) A greyhound racing permitholder that conducted a full
26 schedule of live racing for a period of at least 10 consecutive
27 state fiscal years after the 1996-1997 state fiscal year, or
28 that converted its permit to a permit to conduct greyhound
29 racing after the 1996-1997 state fiscal year, irrevocably may
30 elect not to conduct live racing if the election is made within
31 2 years after the effective date of this act. A greyhound racing
32 permitholder may retain its permit; is a pari-mutuel facility as
33 defined in s. 550.002(23); if such permitholder has been issued
34 a slot machine license, the facility where such permit is
35 located remains an eligible facility as defined in s.
36 551.102(4), continues to be eligible for a slot machine license,
37 and is exempt from ss. 551.104(3) and (4)(c)1. and 551.114(2)
38 and (4); is eligible, but not required, to be a guest track for
39 purposes of intertrack wagering and simulcasting pursuant to ss.



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40 550.3551, 550.615, and 550.6305; and, if such permitholder has
41 been issued a cardroom license, remains eligible for a cardroom
42 license notwithstanding any requirement in s. 849.086 for the
43 conduct of live racing. A greyhound racing permitholder may
44 receive an operating license to conduct pari-mutuel wagering
45 activities at another permitholder's greyhound racing facility
46 pursuant to s. 550.475.

47 (c)1. A thoroughbred horse racing permitholder that has
48 conducted live racing for at least 5 years irrevocably may elect
49 not to conduct live racing if the election is made within 30
50 days after the effective date of this act. A thoroughbred horse
51 racing permitholder that makes such election may retain such
52 permit, must specify in future applications for an operating
53 license that it does not intend to conduct live racing, and is a
54 pari-mutuel facility as defined in s. 550.002(23).

55 2. If a thoroughbred horse racing permitholder makes such
56 election and if such permitholder holds a slot machine license
57 when such election is made, the facility where such permit is
58 located:

59 a. Remains an eligible facility pursuant to s. 551.102(4),
60 and continues to be eligible for a slot machine license;

61 b. Is exempt from ss. 550.5251, 551.104(3) and (4)(c)1.,
62 and 551.114(2) and (4);

63 c. Is eligible, but not required, to be a guest track for
64 purposes of intertrack wagering and simulcasting; and

65 d. Remains eligible for a cardroom license, notwithstanding
66 any requirement in s. 849.086 for the conduct of live racing.

67 3. A thoroughbred horse racing permitholder that makes such
68 election shall comply with all contracts regarding contributions



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69 by such permitholder to thoroughbred horse purse supplements or
70 breeders' awards entered into before the effective date of this
71 act pursuant to s. 551.104(10) (a). At the time of such election,
72 such permitholder shall file with the division an irrevocable
73 consent that such contributions shall be allowed to be used for
74 purses and awards on live races at other thoroughbred horse
75 racing facilities in this state. This subparagraph and s.
76 551.104(10) (a) do not apply after December 31, 2020, to a
77 thoroughbred horse racing permitholder that made such election.

78 (d) A jai alai permitholder, harness horse racing
79 permitholder, or a quarter horse racing permitholder that has
80 conducted live racing or games for at least 5 years irrevocably
81 may elect not to conduct live racing or games if the election is
82 made within 2 years after the effective date of this act. A
83 permitholder that makes such election may retain its permit; is
84 a pari-mutuel facility as defined in s. 550.002(23); if such
85 permitholder has been issued a slot machine license, the
86 facility where such permit is located remains an eligible
87 facility as defined in s. 551.102(4), continues to be eligible
88 for a slot machine license, and is exempt from ss. 551.104(3)
89 and (4) (c)1. and 551.114(2) and (4); is eligible, but not
90 required, to be a guest track and, if the permitholder is a
91 harness horse racing permitholder, to be a host track for
92 purposes of intertrack wagering and simulcasting pursuant to ss.
93 550.3551, 550.615, 550.625, and 550.6305; and, if such
94 permitholder has been issued a cardroom license, remains
95 eligible for a cardroom license notwithstanding any requirement
96 in s. 849.086 to conduct live racing or games.

97 (e) Permitholders ~~may~~ shall be entitled to amend their



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98 applications through February 28.

99 (3) The division shall issue each license no later than
100 March 15. Each permitholder shall operate all performances at
101 the date and time specified on its license. The division shall
102 have the authority to approve minor changes in racing dates
103 after a license has been issued. The division may approve
104 changes in racing dates after a license has been issued when
105 there is no objection from any operating permitholder located
106 within 50 miles of the permitholder requesting the changes in
107 operating dates. In the event of an objection, the division
108 shall approve or disapprove the change in operating dates based
109 upon the impact on operating permitholders located within 50
110 miles of the permitholder requesting the change in operating
111 dates. In making the determination to change racing dates, the
112 division shall take into consideration the impact of such
113 changes on state revenues. Notwithstanding any other provision
114 of law, and for the 2018-2019 fiscal year only, the division may
115 approve changes in racing dates for permitholders if the request
116 for such changes is received before May 31, 2018.

117 Section 3. Paragraph (c) of subsection (4) of section
118 551.104, Florida Statutes, is amended to read:

119 551.104 License to conduct slot machine gaming.-

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

123 (c) 1. Conduct no less fewer than a full schedule of live
124 racing or games as defined in s. 550.002(11), unless conducting
125 less than a full schedule of live racing or games pursuant to s.
126 550.01215(1) (b), (c), or (d). A permitholder's responsibility to



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127 conduct a full schedule ~~such number~~ of live races or games, as
128 defined in s. 550.002(11), shall be reduced by the number of
129 races or games that could not be conducted due to the direct
130 result of fire, war, hurricane, or other disaster or event
131 beyond the control of the permitholder. A permitholder may
132 conduct live races or games at another pari-mutuel facility
133 pursuant to s. 550.475 if such permitholder has operated its
134 live races or games by lease for at least 5 consecutive years
135 immediately prior to the permitholder's application for a slot
136 machine license.

137 2. If not licensed to conduct a full schedule of live
138 racing or games, as defined in s. 550.002(11), pursuant to s.
139 550.01215(1) (b), (c), or (d), remit for the payment of purses
140 and awards on live races an amount equal to the lesser of \$1.5
141 million or 2.75 percent of its slot machine revenues from the
142 previous

143
144 ===== T I T L E A M E N D M E N T =====

145 And the title is amended as follows:

146 Delete lines 7 - 42

147 and insert:

148 permitholder to elect not to conduct live racing if
149 the election is made by a specified date; providing
150 that a greyhound racing permitholder that has been
151 issued a slot machine license remains an eligible
152 facility, continues to be eligible for a slot machine
153 license, is exempt from certain provisions of ch. 551,
154 F.S., is eligible to be a guest track for certain
155 purposes, and remains eligible for a cardroom license;



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156 authorizing a greyhound racing permitholder to receive
157 an operating license to conduct pari-mutuel wagering
158 activities at another permitholder's greyhound racing
159 facility; authorizing a thoroughbred horse racing
160 permitholder to elect not to conduct live racing under
161 certain circumstances; authorizing a thoroughbred
162 horse racing permitholder that elects not to conduct
163 live racing to retain its permit and requiring the
164 permitholder to specify its intention not to conduct
165 live racing in future applications and that it is a
166 pari-mutuel facility; authorizing such thoroughbred
167 horse racing permitholder's facility to remain an
168 eligible facility, to continue to be eligible for a
169 slot machine license, to be exempt from certain
170 provisions of chs. 550 and 551, F.S., to be eligible
171 as a guest track for intertrack wagering and
172 simulcasting, and to remain eligible for a cardroom
173 license; requiring that such permitholder comply with
174 all contracts regarding distributions to thoroughbred
175 horse purse supplements or breeders' awards entered
176 into before a specified date; requiring, for a
177 specified period, that such permitholder file with the
178 division an irrevocable consent authorizing the use of
179 certain contributions for specified purses and awards;
180 authorizing jai alai permitholders, harness horse
181 racing permitholders, and quarter horse racing
182 permitholders to elect not to conduct live racing or
183 games under certain circumstances; authorizing a
184 permitholder that elects not to conduct live racing or



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games to retain its permit and



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/17/2018	.	
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The Committee on Regulated Industries (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 546.13, Florida Statutes, is created to
read:

546.13 Fantasy contests and fantasy contest operators.—

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

(a) "Entry fee" means cash or a cash equivalent that is
required to be paid by a participant in order to participate in



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11 a fantasy contest.

12 (b) "Fantasy contest" means a fantasy or simulated game or
13 contest in which:

14 1. The value of all prizes and awards offered to winning
15 participants is established and made known to the participants
16 in advance of the contest;

17 2. All winning outcomes reflect the relative knowledge and
18 skill of the participants and are determined predominantly by
19 accumulated statistical results of the performance of
20 individuals, including athletes in the case of sporting events;

21 3. No winning outcome is based on the score, point spread,
22 or any performance or performances of any single actual team or
23 combination of such teams, solely on any single performance of
24 an individual athlete or player in any single actual event, or
25 on the performances of participants in collegiate, high school,
26 or youth sporting events.

27 (c) "Fantasy contest operator" means a person or an entity,
28 including any employee or agent, that offers or conducts a
29 fantasy contest with an entry fee for a cash prize or award and
30 that is not a participant in the fantasy contest.

31 (2) EXEMPTIONS.—The Department of Business and Professional
32 Regulation may not regulate and the offenses established in s.
33 849.01, s. 849.08, s. 849.09, s. 849.11, s. 849.14, and s.
34 849.25 do not include or apply to a fantasy contest operated or
35 conducted by a:

36 (a) Fantasy contest operator.

37 (b) Natural person who is a participant in the fantasy
38 contest, serves as the commissioner of not more than 10 fantasy
39 contests in a calendar year, and distributes all entry fees for



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40 the fantasy contest as prizes or awards to the participants in
41 that fantasy contest.

42 Section 2. Subsection (11) of section 550.002, Florida
43 Statutes, is amended to read:

44 550.002 Definitions.—As used in this chapter, the term:

45 (11) "Full schedule of live racing or games" means: †

46 (a) For a greyhound or jai alai permitholder, the conduct
47 of a combination of at least 100 live evening or matinee
48 performances during the preceding year. †

49 (b) For a permitholder who has a converted permit or filed
50 an application on or before June 1, 1990, ~~for a converted~~
51 ~~permit,~~ the conduct of a combination of at least 100 live
52 evening and matinee wagering performances during either of the 2
53 preceding years. †

54 (c) For a jai alai permitholder who does not operate slot
55 machines in its pari-mutuel facility, who has conducted at least
56 100 live performances per year for at least 10 years after
57 December 31, 1992, and whose handle on live jai alai games
58 conducted at its pari-mutuel facility has been less than \$4
59 million per state fiscal year for at least 2 consecutive years
60 after June 30, 1992, the conduct of a combination of at least 40
61 live evening or matinee performances during the preceding year. †

62 (d) For a jai alai permitholder who operates slot machines
63 in its pari-mutuel facility, the conduct of a combination of at
64 least 150 performances during the preceding year. †

65 (e) For a harness permitholder, the conduct of at least 100
66 live regular wagering performances during the preceding year. †

67 (f) For a quarter horse permitholder using ~~at~~ its own
68 facility, unless an alternative schedule of at least 20 live



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69 regular wagering performances is agreed upon by the permitholder
70 and either the Florida Quarter Horse Racing Association or an
71 alternate representative organization designated pursuant to s.
72 550.3342 ~~the horsemen's association representing the majority of~~
73 ~~the quarter horse owners and trainers at the facility~~ and filed
74 with the division along with its annual date application, in the
75 2010-2011 fiscal year, the conduct of at least 20 regular
76 wagering performances, in the 2011-2012 and 2012-2013 fiscal
77 years, the conduct of at least 30 live regular wagering
78 performances, and for every fiscal year after the 2012-2013
79 fiscal year, the conduct of at least 40 live regular wagering
80 performances.†

81 (g) For a quarter horse permitholder leasing another
82 licensed racetrack, the conduct of 160 events at the leased
83 facility.† ~~and~~

84 (h) For a thoroughbred permitholder, the conduct of at
85 least 40 live regular wagering performances during the preceding
86 year.

87 (i) For a permitholder that ~~which~~ is restricted by statute
88 to certain operating periods within the year when other members
89 of its same class of permit are authorized to operate throughout
90 the year, the specified number of live performances which
91 constitute a full schedule of live racing or games is ~~shall be~~
92 adjusted pro rata in accordance with the relationship between
93 its authorized operating period and the full calendar year. ~~and~~
94 The resulting specified number of live performances ~~shall~~
95 constitute the full schedule of live games for such permitholder
96 and all other permitholders of the same class within 100 air
97 miles of such permitholder. A live performance must consist of



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98 no fewer than eight races or games conducted live for each of a
99 minimum of three performances each week at the permit holder's
100 licensed facility under a single admission charge.

101 Section 3. Subsections (1) and (3) of section 550.01215,
102 Florida Statutes, are amended to read:

103 550.01215 License application; periods of operation; bond,
104 conversion of permit.-

105 (1) Each permit holder shall annually, during the period
106 between December 15 and January 4, file in writing with the
107 division its application for an operating a license to conduct
108 pari-mutuel wagering during the next state fiscal year,
109 including intertrack and simulcast race wagering for greyhound
110 racing permit holders and thoroughbred horse racing permit holders
111 that do not to conduct live performances during the next state
112 fiscal year. Each application for live performances must shall
113 specify the number, dates, and starting times of all live
114 performances that which the permit holder intends to conduct. It
115 must shall also specify which performances will be conducted as
116 charity or scholarship performances.

117 (a) ~~In addition,~~ Each application for an operating a
118 license also must shall include:~~:~~

119 1. For each permit holder, whether the permit holder intends
120 to accept wagers on intertrack or simulcast events.

121 2. For each permit holder that elects which elects to
122 operate a cardroom, the dates and periods of operation the
123 permit holder intends to operate the cardroom. ~~or~~

124 3. For each thoroughbred racing permit holder that which
125 elects to receive or rebroadcast out-of-state races after 7
126 p.m., the dates for all performances which the permit holder



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127 intends to conduct.

128 (b) A greyhound racing permitholder that conducted a full
129 schedule of live racing for a period of at least 10 consecutive
130 state fiscal years after the 1996-1997 state fiscal year, or
131 that converted its permit to a permit to conduct greyhound
132 racing after the 1996-1997 state fiscal year, may specify in its
133 application for an operating license that it does not intend to
134 conduct live racing, or that it intends to conduct less than a
135 full schedule of live racing, in the next state fiscal year. A
136 greyhound racing permitholder may retain its permit; is a pari-
137 mutuel facility as defined in s. 550.002(23); if such
138 permitholder has been issued a slot machine license, the
139 facility where such permit is located remains an eligible
140 facility as defined in s. 551.102(4), continues to be eligible
141 for a slot machine license, and is exempt from ss. 551.104(3)
142 and (4)(c)1. and 551.114(2) and (4); is eligible, but not
143 required, to be a guest track for purposes of intertrack
144 wagering and simulcasting pursuant to ss. 550.3551, 550.615, and
145 550.6305; and, if such permitholder has been issued a cardroom
146 license, remains eligible for a cardroom license notwithstanding
147 any requirement in s. 849.086 for the conduct of live racing. A
148 greyhound racing permitholder may receive an operating license
149 to conduct pari-mutuel wagering activities at another
150 permitholder's greyhound racing facility pursuant to s. 550.475.

151 (c)1. A thoroughbred horse racing permitholder that has
152 conducted live racing for at least 5 years irrevocably may elect
153 not to conduct live racing if the election is made within 30
154 days after the effective date of this act. A thoroughbred horse
155 racing permitholder that makes such election may retain such



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156 permit, must specify in future applications for an operating
157 license that it does not intend to conduct live racing, and is a
158 pari-mutuel facility as defined in s. 550.002(23).

159 2. If a thoroughbred horse racing permitholder makes such
160 election and if such permitholder holds a slot machine license
161 when such election is made, the facility where such permit is
162 located:

163 a. Remains an eligible facility pursuant to s. 551.102(4),
164 and continues to be eligible for a slot machine license;

165 b. Is exempt from ss. 550.5251, 551.104(3) and (4)(c)1.,
166 and 551.114(2) and (4);

167 c. Is eligible, but not required, to be a guest track for
168 purposes of intertrack wagering and simulcasting; and

169 d. Remains eligible for a cardroom license, notwithstanding
170 any requirement in s. 849.086 for the conduct of live racing.

171 3. A thoroughbred horse racing permitholder that makes such
172 election shall comply with all contracts regarding contributions
173 by such permitholder to thoroughbred horse purse supplements or
174 breeders' awards entered into before the effective date of this
175 act pursuant to s. 551.104(10)(a). At the time of such election,
176 such permitholder shall file with the division an irrevocable
177 consent that such contributions shall be allowed to be used for
178 purposes and awards on live races at other thoroughbred horse
179 racing facilities in this state. This subparagraph and s.
180 551.104(10)(a) do not apply after December 31, 2020, to a
181 thoroughbred horse racing permitholder that made such election.

182 (d) A harness horse racing permitholder or a quarter horse
183 racing permitholder that has conducted live racing for at least
184 5 years irrevocably may elect not to conduct live racing if the



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185 election is made within 30 days after the effective date of this
186 act. A permitholder that makes such election may retain its
187 permit; is a pari-mutuel facility as defined in s. 550.002(23);
188 if such permitholder has been issued a slot machine license, the
189 facility where such permit is located remains an eligible
190 facility as defined in s. 551.102(4), continues to be eligible
191 for a slot machine license, and is exempt from ss. 551.104(3)
192 and (4)(c)1. and 551.114(2) and (4); is eligible, but not
193 required, to be a guest track and, if the permitholder is a
194 harness horse racing permitholder, to be a host track for
195 purposes of intertrack wagering and simulcasting pursuant to ss.
196 550.3551, 550.615, 550.625, and 550.6305; and, if such
197 permitholder has been issued a cardroom license, remains
198 eligible for a cardroom license notwithstanding any requirement
199 in s. 849.086 to conduct live racing performances.

200 (e) Permitholders ~~may~~ shall be entitled to amend their
201 applications through February 28.

202 (3) The division shall issue each license no later than
203 March 15. Each permitholder shall operate all performances at
204 the date and time specified on its license. The division shall
205 have the authority to approve minor changes in racing dates
206 after a license has been issued. The division may approve
207 changes in racing dates after a license has been issued when
208 there is no objection from any operating permitholder located
209 within 50 miles of the permitholder requesting the changes in
210 operating dates. In the event of an objection, the division
211 shall approve or disapprove the change in operating dates based
212 upon the impact on operating permitholders located within 50
213 miles of the permitholder requesting the change in operating



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214 dates. In making the determination to change racing dates, the
215 division shall take into consideration the impact of such
216 changes on state revenues. Notwithstanding any other provision
217 of law, and for the 2018-2019 fiscal year only, the division may
218 approve changes in racing dates for permitholders if the request
219 for such changes is received before May 31, 2018.

220 Section 4. Section 550.3342, Florida Statutes, is created
221 to read:

222 550.3342 Requirements for electing an alternative quarter
223 horse representative organization.-

224 (1) In the event more than 50 percent of the total horsemen
225 who are participating in, or have participated in, quarter horse
226 racing registered with the American Quarter Horse Association
227 wish to designate a new representative organization, the
228 organization:

229 (a) Must be recognized by the American Quarter Horse
230 Association as the state racing affiliate.

231 (b) May not be affiliated with or under the control of any
232 licensee.

233 (c) Must be formed under guidelines approved by the
234 division.

235 (d) Must be elected by a majority of the horsemen who are
236 participating in, or have participated in, quarter horse racing
237 registered with the American Quarter Horse Association at
238 Florida quarter horse racetracks that follow the American
239 Quarter Horse Association's quarter horse racing guidelines.

240 Section 5. Paragraph (c) of subsection (4) and paragraph
241 (a) of subsection (10) of section 551.104, Florida Statutes, are
242 amended to read:



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243 551.104 License to conduct slot machine gaming.-

244 (4) As a condition of licensure and to maintain continued
245 authority for the conduct of slot machine gaming, a the slot
246 machine licensee shall:

247 (c)1. Conduct no less fewer than a full schedule of live
248 racing or games as defined in s. 550.002(11), unless conducting
249 less than a full schedule of live racing or games pursuant to s.
250 550.01215(1)(b) or (c). A permitholder's responsibility to
251 conduct a full schedule such number of live races or games, as
252 defined in s. 550.002(11), shall be reduced by the number of
253 races or games that could not be conducted due to the direct
254 result of fire, war, hurricane, or other disaster or event
255 beyond the control of the permitholder. A permitholder may
256 conduct live races or games at another pari-mutuel facility
257 pursuant to s. 550.475 if such permitholder has operated its
258 live races or games by lease for at least 5 consecutive years
259 immediately prior to the permitholder's application for a slot
260 machine license.

261 2. If not licensed to conduct a full schedule of live
262 racing or games, as defined in s. 550.002(11), pursuant to s.
263 550.01215(1)(b) or (c), remit for the payment of purses and
264 awards on live races an amount equal to the lesser of \$2 million
265 or 3 percent of its slot machine revenues from the previous
266 state fiscal year to a slot machine licensee licensed to conduct
267 not fewer than 160 days of thoroughbred racing. A slot machine
268 licensee receiving funds under this subparagraph shall remit,
269 within 10 days after receipt, 10 percent of those funds to the
270 Florida Thoroughbred Breeders' Association, Inc., for the
271 payment of breeders', stallion, and special racing awards,



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272 subject to the fee authorized in s. 550.2625(3). If no slot
273 machine licensee is licensed for at least 160 days of live
274 thoroughbred racing, no payments for purses are required. A slot
275 machine licensee that conducts no live racing and is making
276 purse and awards supplement payments due under agreements
277 entered pursuant to paragraph (10)(a) prior to the effective
278 date of this act may offset the total amount paid under such
279 agreements for purses and awards on or after July 1, 2017,
280 against any amount due under this subparagraph until the amount
281 paid and the amount due equal zero.

282 (10)(a)1. No slot machine license or renewal thereof shall
283 be issued to an applicant holding a permit under chapter 550 to
284 conduct pari-mutuel wagering meets of thoroughbred racing unless
285 the applicant has on file with the division a binding written
286 agreement between the applicant and the Florida Horsemen's
287 Benevolent and Protective Association, Inc., governing the
288 payment of purses on live thoroughbred races conducted at the
289 licensee's pari-mutuel facility. In addition, no slot machine
290 license or renewal thereof shall be issued to such an applicant
291 unless the applicant has on file with the division a binding
292 written agreement between the applicant and the Florida
293 Thoroughbred Breeders' Association, Inc., governing the payment
294 of breeders', stallion, and special racing awards on live
295 thoroughbred races conducted at the licensee's pari-mutuel
296 facility. The agreement governing purses and the agreement
297 governing awards may direct the payment of such purses and
298 awards from revenues generated by any wagering or gaming the
299 applicant is authorized to conduct under Florida law. All purses
300 and awards shall be subject to the terms of chapter 550. All



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301 sums for breeders', stallion, and special racing awards shall be
302 remitted monthly to the Florida Thoroughbred Breeders'
303 Association, Inc., for the payment of awards subject to the
304 administrative fee authorized in s. 550.2625(3).

305 2. No slot machine license or renewal thereof shall be
306 issued by the division to an applicant holding a permit under
307 chapter 550 to conduct pari-mutuel wagering meets of quarter
308 horse racing unless the applicant includes with their
309 application has on file with the division a binding written
310 agreement governing the payment of purses on live quarter horse
311 aces to be conducted at the applicant's pari-mutuel facility
312 for the licensure period applied for. Such agreement must be
313 between either the applicant and the Florida Quarter Horse
314 Racing Association or the applicant and an alternative
315 representative organization designated pursuant to s. 550.3342.
316 Such agreement the association representing a majority of the
317 horse owners and trainers at the applicant's eligible facility,
318 governing the payment of purses on live quarter horse races
319 conducted at the licensee's pari-mutuel facility. The agreement
320 governing purses may direct the payment of such purses from
321 revenues generated by any wagering or gaming the applicant is
322 authorized to conduct under Florida law. All purses are ~~shall be~~
323 subject to the terms of chapter 550.

324 Section 6. Subsections (1), (2), and (4) of section
325 551.106, Florida Statutes, are amended to read:

326 551.106 License fee; tax rate; penalties.—

327 (1) LICENSE FEE.—

328 ~~(a)~~ Upon submission of the initial application for a slot
329 machine license, and annually thereafter, on the anniversary



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330 date of the issuance of the initial license, the licensee must
331 pay to the division a nonrefundable license fee of ~~\$3 million~~
332 ~~for the succeeding 12 months of licensure. In the 2010-2011~~
333 ~~fiscal year, the licensee must pay the division a nonrefundable~~
334 ~~license fee of \$2.5 million for the succeeding 12 months of~~
335 ~~licensure. In the 2011-2012 fiscal year and for every fiscal~~
336 ~~year thereafter, the licensee must pay the division a~~
337 ~~nonrefundable license fee of \$2 million for the succeeding 12~~
338 months of licensure. The license fee must ~~shall~~ be deposited
339 into the Pari-mutuel Wagering Trust Fund of the Department of
340 Business and Professional Regulation to be used by the division
341 and the Department of Law Enforcement for investigations,
342 regulation of slot machine gaming, and enforcement of slot
343 machine gaming provisions under this chapter. These payments
344 must ~~shall~~ be accounted for separately from taxes or fees paid
345 pursuant to ~~the provisions of~~ chapter 550.

346 ~~(b) Prior to January 1, 2007, the division shall evaluate~~
347 ~~the license fee and shall make recommendations to the President~~
348 ~~of the Senate and the Speaker of the House of Representatives~~
349 ~~regarding the optimum level of slot machine license fees in~~
350 ~~order to adequately support the slot machine regulatory program.~~

351 (2) TAX ON SLOT MACHINE REVENUES.—

352 (a) 1. The tax rate on slot machine revenues at each
353 facility is shall be 35 percent. Effective January 1, 2019, the
354 tax rate on slot machine revenues at each facility is 30
355 percent. Effective July 1, 2020, the tax rate on slot machine
356 revenues at each facility is 25 percent.

357 2.a. If, during any state fiscal year, the aggregate amount
358 of tax paid to the state by ~~all~~ slot machine licensees in



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359 Broward and Miami-Dade Counties is less than the aggregate
360 amount of tax paid to the state by ~~all slot machine~~ licensees in
361 those counties in the 2017-2018 ~~2008-2009~~ fiscal year, each slot
362 machine licensee shall pay to the state within 45 days after the
363 end of the state fiscal year a surcharge ~~equal to its pro rata~~
364 ~~share of an amount equal to the difference between the aggregate~~
365 ~~amount of tax paid to the state by all slot machine licensees in~~
366 ~~the 2008-2009 fiscal year and the amount of tax paid during the~~
367 ~~fiscal year.~~

368 b. The amount of the surcharge to be paid by each such
369 licensee must be calculated by dividing the aggregate amount of
370 slot machine taxes paid to the state by all such slot machine
371 licensees in the 2017-2018 fiscal year by the aggregate amount
372 of slot machine taxes paid by all such licensees during the
373 applicable state fiscal year, multiplying the result by the
374 amount of slot machine taxes paid by the licensee during the
375 applicable state fiscal year, and then subtracting from that
376 product the amount of slot machine taxes paid by the licensee
377 during the applicable state fiscal year. However, the sum of the
378 taxes paid by a licensee pursuant to subparagraph 1. and any
379 surcharge due from the licensee may not exceed 35 percent of the
380 slot machine revenue of that licensee in the applicable state
381 fiscal year ~~Each licensee's pro rata share shall be an amount~~
382 ~~determined by dividing the number 1 by the number of facilities~~
383 ~~licensed to operate slot machines during the applicable fiscal~~
384 ~~year, regardless of whether the facility is operating such~~
385 ~~machines.~~

386 (b) The slot machine revenue tax imposed by this section
387 must ~~shall~~ be paid to the division for deposit into the Pari-



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388 mutuel Wagering Trust Fund for immediate transfer by the Chief
389 Financial Officer for deposit into the Educational Enhancement
390 Trust Fund of the Department of Education. Any interest earnings
391 on the tax revenues must ~~shall~~ also be transferred to the
392 Educational Enhancement Trust Fund.

393 (c)1. Funds transferred to the Educational Enhancement
394 Trust Fund under paragraph (b) must ~~shall~~ be used to supplement
395 public education funding statewide.

396 2. If necessary to comply with any covenant established
397 pursuant to s. 1013.68(4), s. 1013.70(1), or s. 1013.737(3),
398 funds transferred to the Educational Enhancement Trust Fund
399 under paragraph (b) must ~~shall~~ first be available to pay debt
400 service on lottery bonds issued to fund school construction in
401 the event lottery revenues are insufficient for such purpose or
402 to satisfy debt service reserve requirements established in
403 connection with lottery bonds. Moneys available pursuant to this
404 subparagraph are subject to annual appropriation by the
405 Legislature.

406 (4) TO PAY TAX; PENALTIES.—A slot machine licensee who
407 fails to make tax and any applicable surcharge payments as
408 required under this section is subject to an administrative
409 penalty of up to \$10,000 for each day the tax payment is not
410 remitted. All administrative penalties imposed and collected
411 must ~~shall~~ be deposited into the Pari-mutuel Wagering Trust Fund
412 of the Department of Business and Professional Regulation. If
413 any slot machine licensee fails to pay penalties imposed by
414 order of the division under this subsection, the division may
415 deny, suspend, revoke, or refuse to renew the license of the
416 permitholder or slot machine licensee.



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417 Section 7. Present subsections (9) through (17) of section
418 849.086, Florida Statutes, are redesignated as subsections (10)
419 through (18), respectively, and a new subsection (9) is added to
420 that section, subsections (1) and (2) of that section are
421 amended, paragraph (g) is added to subsection (4) of that
422 section, and paragraph (b) of subsection (5), paragraph (c) of
423 subsection (7), paragraph (a) of subsection (8), present
424 subsection (12), and paragraphs (d) and (h) of present
425 subsection (13) are amended, to read:

426 849.086 Cardrooms authorized.—

427 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature
428 to provide additional entertainment choices for the residents of
429 and visitors to the state, promote tourism in the state, provide
430 revenues to support the continuation of live pari-mutuel
431 activity, and provide additional state revenues through the
432 authorization of the playing of certain games in the state at
433 facilities known as cardrooms which are to be located at
434 licensed pari-mutuel facilities. To ensure the public confidence
435 in the integrity of authorized cardroom operations, this act is
436 designed to strictly regulate the facilities, persons, and
437 procedures related to cardroom operations. Furthermore, the
438 Legislature finds that authorized games of poker and dominoes ~~as~~
439 ~~herein defined~~ are considered to be pari-mutuel style games and
440 not casino gaming because the participants play against each
441 other instead of against the house.

442 (2) DEFINITIONS.—As used in this section:

443 (a) "Authorized game" means a game or series of games of
444 poker or dominoes which are played in conformance with this
445 section, including designated player games that are played in a



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446 manner consistent with the rules and requirements specified in
447 the 1974 edition of Hoyle's Modern Encyclopedia of Card Games:
448 Rules of All the Basic Games and Popular Variations and
449 including three card poker a nonbanking manner.

450 (b) "Banking game" means a game in which the house is a
451 participant in the game, taking on players, paying winners, and
452 collecting from losers ~~or in which the cardroom establishes a~~
453 ~~bank against which participants play.~~ A designated player game
454 is not a banking game.

455 (c) "Cardroom" means a facility where authorized games are
456 played for money or anything of value and to which the public is
457 invited to participate in such games and charged a fee for
458 participation by the operator of such facility. Authorized games
459 and cardrooms do not constitute casino gaming operations if
460 conducted at an eligible facility.

461 (d) "Cardroom management company" means any individual not
462 an employee of the cardroom operator, any proprietorship,
463 partnership, corporation, or other entity that enters into an
464 agreement with a cardroom operator to manage, operate, or
465 otherwise control the daily operation of a cardroom.

466 (e) "Cardroom distributor" means any business that
467 distributes cardroom paraphernalia such as card tables, betting
468 chips, chip holders, dominoes, dominoes tables, drop boxes,
469 banking supplies, playing cards, card shufflers, and other
470 associated equipment to authorized cardrooms.

471 (f) "Cardroom operator" means a licensed pari-mutuel
472 permitholder that ~~which~~ holds a valid permit and license issued
473 by the division pursuant to chapter 550 and which also holds a
474 valid cardroom license issued by the division pursuant to this



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475 section which authorizes such person to operate a cardroom and
476 to conduct authorized games in such cardroom.

477 (g) "Designated player" means the player identified for
478 each game by a button that rotates clockwise before each game
479 begins as the player in the dealer position and seated at a
480 traditional player position in a designated player game who pays
481 winning players and collects from losing players.

482 (h) "Designated player game" means a game in which the
483 players compare their cards only to the cards of the designated
484 player or to a combination of cards held by the designated
485 player and cards common and available for play by all players.

486 (i)~~(g)~~ "Division" means the Division of Pari-mutuel
487 Wagering of the Department of Business and Professional
488 Regulation.

489 (j)~~(h)~~ "Dominoes" means a game of dominoes typically played
490 with a set of 28 flat rectangular blocks, called "bones," which
491 are marked on one side and divided into two equal parts, with
492 zero to six dots, called "pips," in each part. The term also
493 includes larger sets of blocks that contain a correspondingly
494 higher number of pips. The term also means the set of blocks
495 used to play the game.

496 (k)~~(i)~~ "Gross receipts" means the total amount of money
497 received by a cardroom from any person for participation in
498 authorized games.

499 (l)~~(j)~~ "House" means the cardroom operator and all
500 employees of the cardroom operator.

501 (m)~~(k)~~ "Net proceeds" means the total amount of gross
502 receipts received by a cardroom operator from cardroom
503 operations less direct operating expenses related to cardroom



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504 operations, including labor costs, admission taxes only if a
505 separate admission fee is charged for entry to the cardroom
506 facility, gross receipts taxes imposed on cardroom operators by
507 this section, the annual cardroom license fees imposed by this
508 section on each table operated at a cardroom, and reasonable
509 promotional costs excluding officer and director compensation,
510 interest on capital debt, legal fees, real estate taxes, bad
511 debts, contributions or donations, or overhead and depreciation
512 expenses not directly related to the operation of the cardrooms.

513 (n)~~(l)~~ "Rake" means a set fee or percentage of the pot
514 assessed by a cardroom operator for providing the services of a
515 dealer, table, or location for playing the authorized game.

516 (o)~~(m)~~ "Tournament" means a series of games that have more
517 than one betting round involving one or more tables and where
518 the winners or others receive a prize or cash award.

519 (4) AUTHORITY OF DIVISION.—The Division of Pari-mutuel
520 Wagering of the Department of Business and Professional
521 Regulation shall administer this section and regulate the
522 operation of cardrooms under this section and the rules adopted
523 pursuant thereto, and is hereby authorized to:

524 (g) Establish a reasonable period to respond to requests
525 from a licensed cardroom; provided however, the division has a
526 maximum of 45 days to approve:

527 1. A cardroom's internal controls or provide the cardroom
528 with a list of deficiencies as to the internal controls.

529 2. Rules for a new authorized game submitted by a licensed
530 cardroom or provide the cardroom with a list of deficiencies as
531 to those rules.

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533 No later than 10 days after the submission of revised internal
534 controls or revised rules addressing the deficiencies identified
535 by the division, the division must review and approve or reject
536 the revised internal controls or revised rules.

537 (5) LICENSE REQUIRED; APPLICATION; FEES.—No person may
538 operate a cardroom in this state unless such person holds a
539 valid cardroom license issued pursuant to this section.

540 (b) After the initial cardroom license is granted, the
541 application for the annual license renewal shall be made in
542 conjunction with the applicant's annual application for its
543 pari-mutuel license. If a permitholder has operated a cardroom
544 during any of the 3 previous fiscal years and fails to include a
545 renewal request for the operation of the cardroom in its annual
546 application for license renewal, the permitholder may amend its
547 annual application to include operation of the cardroom. ~~In~~
548 ~~order for a cardroom license to be renewed the applicant must~~
549 ~~have requested, as part of its pari-mutuel annual license~~
550 ~~application, to conduct at least 90 percent of the total number~~
551 ~~of live performances conducted by such permitholder during~~
552 ~~either the state fiscal year in which its initial cardroom~~
553 ~~license was issued or the state fiscal year immediately prior~~
554 ~~thereto if the permitholder ran at least a full schedule of live~~
555 ~~racing or games in the prior year. If the application is for a~~
556 ~~harness permitholder cardroom, the applicant must have requested~~
557 ~~authorization to conduct a minimum of 140 live performances~~
558 ~~during the state fiscal year immediately prior thereto. If more~~
559 ~~than one permitholder is operating at a facility, each~~
560 ~~permitholder must have applied for a license to conduct a full~~
561 ~~schedule of live racing.~~



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562 (7) CONDITIONS FOR OPERATING A CARDROOM.—

563 (c) A cardroom operator must at all times employ and
564 provide a nonplaying live dealer at ~~for~~ each table on which
565 authorized ~~card~~ games ~~which traditionally use a dealer~~ are
566 conducted ~~at the cardroom~~. Such dealers may not have a
567 participatory interest in any game other than the dealing of
568 cards and may not have an interest in the outcome of the game.
569 The providing of such dealers by a licensee does not constitute
570 the conducting of a banking game by the cardroom operator.

571 (8) METHOD OF WAGERS; LIMITATION.—

572 (a) ~~No~~ Wagering may not be conducted using money or other
573 negotiable currency. Games may only be played utilizing a
574 wagering system whereby all players' money is first converted by
575 the house to tokens or chips that may ~~which shall~~ be used for
576 wagering only at that specific cardroom.

577 (9) DESIGNATED PLAYER GAMES AUTHORIZED.—

578 (a) A cardroom operator may offer designated player games
579 consisting of players making wagers against the designated
580 player. However, not more than 50 percent of the total licensed
581 tables in a cardroom may offer designated player games. The
582 designated player must be licensed pursuant to paragraph (6) (b).
583 Employees of a designated player also must be licensed, and the
584 designated player shall pay, in addition to the business
585 occupational fee established pursuant to paragraph (6) (i), an
586 employee occupational license fee that may not exceed \$500 per
587 employee for any 12-month period.

588 (b) A cardroom operator may not serve as a designated
589 player in any game. The cardroom operator may not have a
590 financial interest in a designated player in any game. A



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591 cardroom operator may collect a rake in accordance with the rake
592 structure posted at the table.

593 (c) If there are multiple designated players at a table,
594 the dealer button shall be rotated in a clockwise rotation after
595 each hand.

596 (d) A cardroom operator may not allow a designated player
597 to pay an opposing player who holds a lower-ranked hand.

598 (e) A designated player may not be required by the rules of
599 a game or by the rules of a cardroom to cover more than 10 times
600 the maximum wager for players participating in any one game.

601 (f) The cardroom, or any cardroom licensee, may not
602 contract with, or receive compensation other than a posted table
603 rake from, any player to participate in any game to serve as a
604 designated player.

605 (13) ~~(12)~~ PROHIBITED ACTIVITIES.—

606 (a) A ~~Ne~~ person licensed to operate a cardroom may not
607 conduct any banking game or any game not specifically authorized
608 by this section.

609 (b) A ~~Ne~~ person who is younger than ~~under~~ 18 years of age
610 may not be permitted to hold a cardroom or employee license, or
611 to engage in any game conducted therein.

612 (c) With the exception of mechanical card shufflers, ~~Ne~~
613 electronic or mechanical devices, ~~except mechanical card~~
614 ~~shufflers,~~ may not be used to conduct any authorized game in a
615 cardroom.

616 (d) ~~Ne~~ Cards, game components, or game implements may not
617 be used in playing an authorized game unless they have ~~such has~~
618 been furnished or provided to the players by the cardroom
619 operator.



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620 (14)~~(13)~~ TAXES AND OTHER PAYMENTS.—

621 (d)1. Each ~~greyhound and jai alai~~ permitholder that
622 operates a cardroom facility shall use at least 4 percent of
623 such permitholder's cardroom monthly gross receipts to
624 supplement ~~greyhound~~ purses and awards or jai alai prize money,
625 respectively, during the permitholder's next ensuing pari-mutuel
626 meet.

627 2. A cardroom license or renewal thereof may not be issued
628 to a permitholder conducting less than a full schedule of live
629 racing or games, as defined in s. 550.002(11), pursuant to s.
630 550.01215(1) (b), (c), or (d) unless the applicant has on file
631 with the division a binding written contract with a thoroughbred
632 permitholder that is licensed to conduct live racing and that
633 does not possess a slot machine license. This contract must
634 provide that the permitholder will pay an amount equal to 4
635 percent of its monthly cardroom gross receipts to the
636 thoroughbred permitholder conducting the live racing for
637 exclusive use as purses and awards during the current or ensuing
638 live racing meet of the thoroughbred permitholder. A
639 thoroughbred permitholder receiving funds under this
640 subparagraph shall remit, within 10 days after receipt, 10
641 percent of those funds to the Florida Thoroughbred Breeders'
642 Association, Inc., for the payment of breeders', stallion, and
643 special racing awards, subject to the fee authorized in s.
644 550.2625(3). If there is not a thoroughbred permitholder that
645 does not possess a slot machine license, payments for purses are
646 not required, and the cardroom licensee shall retain such funds
647 for its use. Each thoroughbred and harness horse racing
648 permitholder that operates a cardroom facility shall use at



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649 least 50 percent of such permitholder's cardroom monthly net
650 proceeds as follows: 47 percent to supplement purses and 3
651 percent to supplement breeders' awards during the permitholder's
652 next ensuing racing meet.

653 3. A ~~No~~ cardroom license or renewal thereof may not ~~shall~~
654 be issued by the division to an applicant that holds ~~holding~~ a
655 permit under chapter 550 to conduct pari-mutuel wagering meets
656 of quarter horse racing and that conducts live racing unless the
657 applicant includes with its application ~~has on file with the~~
658 ~~division~~ a binding written agreement governing the payment of
659 purses on live quarter horse races to be conducted at the
660 applicant's pari-mutuel facility for the licensure period
661 applied for. Such agreement must either be between the applicant
662 and the Florida Quarter Horse Racing Association or the
663 applicant and an alternative representative organization
664 designated pursuant to s. 550.3342. Such agreement ~~the~~
665 ~~association representing a majority of the horse owners and~~
666 ~~trainers at the applicant's eligible facility, governing the~~
667 ~~payment of purses on live quarter horse races conducted at the~~
668 ~~licensee's pari-mutuel facility. The agreement governing purses~~
669 may direct the payment of such purses from revenues generated by
670 any wagering or gaming the applicant is authorized to conduct
671 under Florida law. All purses are ~~shall be~~ subject to the terms
672 of chapter 550.

673 (h) One-quarter of the moneys deposited into the Pari-
674 mutuel Wagering Trust Fund pursuant to paragraph (g) shall, by
675 October 1 of each year, be distributed to the local government
676 that approved the cardroom under subsection (17) ~~(16)~~; however,
677 if two or more pari-mutuel racetracks are located within the



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678 same incorporated municipality, the cardroom funds shall be
679 distributed to the municipality. If a pari-mutuel facility is
680 situated in such a manner that it is located in more than one
681 county, the site of the cardroom facility shall determine the
682 location for purposes of disbursement of tax revenues under this
683 paragraph. The division shall, by September 1 of each year,
684 determine: the amount of taxes deposited into the Pari-mutuel
685 Wagering Trust Fund pursuant to this section from each cardroom
686 licensee; the location by county of each cardroom; whether the
687 cardroom is located in the unincorporated area of the county or
688 within an incorporated municipality; and, the total amount to be
689 distributed to each eligible county and municipality.

690 Section 8. The Division of Law Revision and Information is
691 directed to replace the phrase "the effective date of this act"
692 wherever it occurs in this act with the date this act becomes a
693 law.

694 Section 9. This act shall take effect upon becoming a law.

695
696 ===== T I T L E A M E N D M E N T =====

697 And the title is amended as follows:

698 Delete everything before the enacting clause
699 and insert:

700 A bill to be entitled
701 An act relating to gaming; creating s. 546.13, F.S.;
702 defining terms; exempting a fantasy contest from
703 certain regulations; amending s. 550.002, F.S.;
704 providing that a quarter horse permitholder and an
705 alternative representative organization may agree to
706 an alternative schedule of performances; amending s.



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707 550.01215, F.S.; revising application requirements for
708 a pari-mutuel operating license; authorizing a
709 greyhound racing permitholder to specify certain
710 intentions on its application; providing that a
711 greyhound racing permitholder that has been issued a
712 slot machine license remains an eligible facility,
713 continues to be eligible for a slot machine license,
714 is exempt from certain provisions of ch. 551, F.S., is
715 eligible to be a guest track for certain purposes, and
716 remains eligible for a cardroom license; authorizing a
717 greyhound racing permitholder to receive an operating
718 license to conduct pari-mutuel wagering activities at
719 another permitholder's greyhound racing facility;
720 authorizing a thoroughbred horse racing permitholder
721 to elect not to conduct live racing under certain
722 circumstances; authorizing a thoroughbred horse racing
723 permitholder that elects not to conduct live racing to
724 retain its permit and requiring the permitholder to
725 specify its intention not to conduct live racing in
726 future applications and that it is a pari-mutuel
727 facility; authorizing such thoroughbred horse racing
728 permitholder's facility to remain an eligible
729 facility, to continue to be eligible for a slot
730 machine license, to be exempt from certain provisions
731 of chs. 550 and 551, F.S., to be eligible as a guest
732 track for intertrack wagering and simulcasting, and to
733 remain eligible for a cardroom license; requiring that
734 such permitholder comply with all contracts regarding
735 distributions to thoroughbred horse purse supplements



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736 or breeders' awards entered into before a specified
737 date; requiring, for a specified period, that such
738 permitholder file with the division an irrevocable
739 consent authorizing the use of certain contributions
740 for specified purses and awards; authorizing harness
741 horse and quarter horse racing permitholders to elect
742 not to conduct live racing under certain
743 circumstances; authorizing a permitholder that elects
744 not to conduct live racing to retain its permit and
745 remain a pari-mutuel facility; specifying that, if
746 such permitholder has been issued a slot machine
747 license, the permitholder's facility remains an
748 eligible facility, continues to be eligible for a slot
749 machine license, is exempt from certain provisions of
750 chs. 550 and 551, F.S., is eligible to be a guest
751 track, and if the permitholder is a harness horse
752 racing permitholder, a host track for intertrack
753 wagering and simulcasting, and remains eligible for a
754 cardroom license; authorizing a harness horse racing
755 permitholder to be a host track for purposes of
756 intertrack wagering and simulcasting; authorizing the
757 division to approve a change in racing dates for a
758 permitholder if the request for a change is received
759 before a specified date and under certain
760 circumstances; creating s. 550.3342, F.S.;
761 establishing the requirements for electing an
762 alternative quarter horse representative organization;
763 amending s. 551.104, F.S.; revising conditions of
764 licensure and conditions for maintaining authority to



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765 conduct slot machine gaming; amending s. 551.106,
766 F.S.; deleting obsolete provisions; revising the tax
767 rate on slot machine revenue effective on specified
768 dates; providing a formula to calculate a surcharge
769 amount; prohibiting the surcharge from exceeding a
770 certain amount; amending s. 849.086, F.S.; revising
771 legislative intent; revising definitions; authorizing
772 the division to establish a reasonable period to
773 respond to certain requests from a licensed cardroom;
774 providing that the division must approve certain
775 requests within 45 days; requiring the division to
776 review and approve or reject certain revised internal
777 controls or revised rules within 10 days after
778 submission; deleting provisions relating to the
779 renewal of a cardroom license; making technical
780 changes; authorizing certain cardroom operators to
781 offer a certain number of certain designated player
782 games; requiring the designated player and employees
783 of the designated player to be licensed; requiring the
784 designated player to pay certain fees; prohibiting a
785 cardroom operator from serving as the designated
786 player in a game and from having a financial interest
787 in a designated player; authorizing a cardroom
788 operator to collect a rake, subject to certain
789 requirements; requiring the dealer button to be
790 rotated under certain circumstances; prohibiting a
791 cardroom operator from allowing a designated player to
792 pay an opposing player under certain circumstances;
793 prohibiting the rules of the game or of the cardroom



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794 to require a designated player to cover more than 10
795 times the maximum wager for players participating in
796 any one game; prohibiting a cardroom or cardroom
797 licensee from contracting with or receiving certain
798 compensation from a player to allow that player to
799 participate in any game as a designated player;
800 revising requirements for a cardroom license to be
801 issued or renewed; requiring a certain written
802 agreement with a thoroughbred permitholder; providing
803 contract requirements for the agreement; requiring a
804 thoroughbred permitholder to remit a percentage of
805 specified funds to the Florida Thoroughbred Breeders'
806 Association, Inc., subject to certain requirements;
807 requiring certain applicants to include a written
808 agreement with an alternative quarter horse
809 representative organization, if such organization
810 exists, in their application for a cardroom license;
811 conforming a cross-reference; providing a directive to
812 the Division of Law Revision and Information;
813 providing an effective date.

By Senator Hutson

7-00886B-18

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1 A bill to be entitled
2 An act relating to gaming; creating s. 546.13, F.S.;
3 defining terms; exempting a fantasy contest from
4 certain regulations; amending s. 550.01215, F.S.;
5 revising application requirements for a pari-mutuel
6 operating license; authorizing a greyhound racing
7 permitholder to specify certain intentions on its
8 application; providing that a greyhound racing
9 permitholder that has been issued a slot machine
10 license remains an eligible facility, continues to be
11 eligible for a slot machine license, is exempt from
12 certain provisions of ch. 551, F.S., is eligible to be
13 a guest track for certain purposes, and remains
14 eligible for a cardroom license; authorizing a
15 greyhound racing permitholder to receive an operating
16 license to conduct pari-mutuel wagering activities at
17 another permitholder's greyhound racing facility;
18 authorizing a thoroughbred horse racing permitholder
19 to elect not to conduct live racing under certain
20 circumstances; authorizing a thoroughbred horse racing
21 permitholder that elects not to conduct live racing to
22 retain its permit and requiring the permitholder to
23 specify its intention not to conduct live racing in
24 future applications and that it is a pari-mutuel
25 facility; authorizing such thoroughbred racing
26 permitholder's facility to remain an eligible
27 facility, to continue to be eligible for a slot
28 machine license, to be exempt from certain provisions
29 of chs. 550 and 551, F.S., to be eligible as a guest

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30 track for intertrack wagering and simulcasting, and to
31 remain eligible for a cardroom license; requiring that
32 such permitholder comply with all contracts regarding
33 distributions to thoroughbred horse purse supplements
34 or breeders' awards entered into before a specified
35 date; requiring, for a specified period, that such
36 permitholder file with the division an irrevocable
37 consent authorizing the use of certain contributions
38 for specified purses and awards; authorizing harness
39 horse and quarter horse racing permitholders to elect
40 not to conduct live racing under certain
41 circumstances; authorizing a permitholder that elects
42 not to conduct live racing to retain its permit and
43 remain a pari-mutuel facility; specifying that, if
44 such permitholder has been issued a slot machine
45 license, the permitholder's facility remains an
46 eligible facility, continues to be eligible for a slot
47 machine license, is exempt from certain provisions of
48 chs. 550 and 551, F.S., is eligible to be a guest
49 track, and if the permitholder is a harness horse
50 racing permitholder, a host track for intertrack
51 wagering and simulcasting, and remains eligible for a
52 cardroom license; authorizing a harness horse racing
53 permitholder to be a host track for purposes of
54 intertrack wagering and simulcasting; authorizing the
55 division to approve a change in racing dates for a
56 permitholder if the request for a change is received
57 before a specified date and under certain
58 circumstances; amending s. 551.104, F.S.; revising

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59 conditions of licensure and conditions for maintaining
60 authority to conduct slot machine gaming; amending s.
61 551.106, F.S.; deleting obsolete provisions; revising
62 the tax rate on slot machine revenue effective on
63 specified dates; providing a formula to calculate a
64 surcharge amount; prohibiting the surcharge from
65 exceeding a certain amount; amending s. 849.086, F.S.;
66 revising legislative intent; revising definitions;
67 authorizing the division to establish a reasonable
68 period to respond to certain requests from a licensed
69 cardroom; providing that the division must approve
70 certain requests within 45 days; requiring the
71 division to review and approve or reject certain
72 revised internal controls or revised rules within 10
73 days after submission; deleting provisions relating to
74 the renewal of a cardroom license; making technical
75 changes; authorizing certain cardroom operators to
76 offer a certain number of certain designated player
77 games; requiring the designated player and employees
78 of the designated player to be licensed; requiring the
79 designated player to pay certain fees; prohibiting a
80 cardroom operator from serving as the designated
81 player in a game and from having a financial interest
82 in a designated player; authorizing a cardroom
83 operator to collect a rake, subject to certain
84 requirements; requiring the dealer button to be
85 rotated under certain circumstances; prohibiting a
86 cardroom operator from allowing a designated player to
87 pay an opposing player under certain circumstances;

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88 prohibiting the rules of the game or of the cardroom
89 to require a designated player to cover more than 10
90 times the maximum wager for players participating in
91 any one game; prohibiting a cardroom or cardroom
92 licensee from contracting with or receiving certain
93 compensation from a player to allow that player to
94 participate in any game as a designated player;
95 revising requirements for a cardroom license to be
96 issued or renewed; requiring a certain written
97 agreement with a thoroughbred permitholder; providing
98 contract requirements for the agreement; requiring a
99 thoroughbred permitholder to remit a percentage of
100 specified funds to the Florida Thoroughbred Breeders'
101 Association, Inc., subject to certain requirements;
102 deleting provisions relating to a quarter horse racing
103 permitholder's cardroom license; conforming a cross-
104 reference; providing a directive to the Division of
105 Law Revision and Information; providing an effective
106 date.

107
108 Be It Enacted by the Legislature of the State of Florida:

109
110 Section 1. Section 546.13, Florida Statutes, is created to
111 read:

112 546.13 Fantasy contests and fantasy contest operators.—

113 (1) DEFINITIONS.—As used in this section, the term:

114 (a) "Entry fee" means cash or a cash equivalent that is
115 required to be paid by a participant in order to participate in
116 a fantasy contest.

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117 (b) "Fantasy contest" means a fantasy or simulated game or
118 contest in which:

119 1. The value of all prizes and awards offered to winning
120 participants is established and made known to the participants
121 in advance of the contest;

122 2. All winning outcomes reflect the relative knowledge and
123 skill of the participants and are determined predominantly by
124 accumulated statistical results of the performance of
125 individuals, including athletes in the case of sporting events;

126 3. No winning outcome is based on the score, point spread,
127 or any performance or performances of any single actual team or
128 combination of such teams, solely on any single performance of
129 an individual athlete or player in any single actual event, or
130 on the performances of participants in collegiate, high school,
131 or youth sporting events.

132 (c) "Fantasy contest operator" means a person or an entity,
133 including any employee or agent, that offers or conducts a
134 fantasy contest with an entry fee for a cash prize or award and
135 that is not a participant in the fantasy contest.

136 (2) EXEMPTIONS.—The Department of Business and Professional
137 Regulation may not regulate and the offenses established in s.
138 849.01, s. 849.08, s. 849.09, s. 849.11, s. 849.14, and s.
139 849.25 do not include or apply to a fantasy contest operated or
140 conducted by a:

141 (a) Fantasy contest operator.

142 (b) Natural person who is a participant in the fantasy
143 contest, serves as the commissioner of not more than 10 fantasy
144 contests in a calendar year, and distributes all entry fees for
145 the fantasy contest as prizes or awards to the participants in

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146 that fantasy contest.

147 Section 2. Subsections (1) and (3) of section 550.01215,
148 Florida Statutes, are amended to read:

149 550.01215 License application; periods of operation; bond,
150 conversion of permit.—

151 (1) Each permitholder shall annually, during the period
152 between December 15 and January 4, file in writing with the
153 division its application for an operating a license to conduct
154 pari-mutuel wagering during the next state fiscal year,
155 including intertrack and simulcast race wagering for greyhound
156 racing permitholders and thoroughbred horse racing permitholders
157 that do not ~~to~~ conduct live performances during the next state
158 fiscal year. Each application for live performances must shall
159 specify the number, dates, and starting times of all live
160 performances that which the permitholder intends to conduct. It
161 must shall also specify which performances will be conducted as
162 charity or scholarship performances.

163 (a) In addition, Each application for an operating a
164 license also must shall include:;

165 1. For each permitholder, whether the permitholder intends
166 to accept wagers on intertrack or simulcast events.

167 2. For each permitholder that elects which elects to
168 operate a cardroom, the dates and periods of operation the
169 permitholder intends to operate the cardroom. ~~or~~

170 3. For each thoroughbred racing permitholder that which
171 elects to receive or rebroadcast out-of-state races after 7
172 p.m., the dates for all performances which the permitholder
173 intends to conduct.

174 (b) A greyhound racing permitholder that conducted a full

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175 schedule of live racing for a period of at least 10 consecutive
176 state fiscal years after the 1996-1997 state fiscal year, or
177 that converted its permit to a permit to conduct greyhound
178 racing after the 1996-1997 state fiscal year, may specify in its
179 application for an operating license that it does not intend to
180 conduct live racing, or that it intends to conduct less than a
181 full schedule of live racing, in the next state fiscal year. A
182 greyhound racing permitholder may retain its permit; is a pari-
183 mutuel facility as defined in s. 550.002(23); if such
184 permitholder has been issued a slot machine license, the
185 facility where such permit is located remains an eligible
186 facility as defined in s. 551.102(4), continues to be eligible
187 for a slot machine license, and is exempt from ss. 551.104(3)
188 and (4)(c)1. and 551.114(2) and (4); is eligible, but not
189 required, to be a guest track for purposes of intertrack
190 wagering and simulcasting pursuant to ss. 550.3551, 550.615, and
191 550.6305; and, if such permitholder has been issued a cardroom
192 license, remains eligible for a cardroom license notwithstanding
193 any requirement in s. 849.086 for the conduct of live racing. A
194 greyhound racing permitholder may receive an operating license
195 to conduct pari-mutuel wagering activities at another
196 permitholder's greyhound racing facility pursuant to s. 550.475.

197 (c)1. A thoroughbred horse racing permitholder that has
198 conducted live racing for at least 5 years irrevocably may elect
199 not to conduct live racing if the election is made within 30
200 days after the effective date of this act. A thoroughbred horse
201 racing permitholder that makes such election may retain such
202 permit, must specify in future applications for an operating
203 license that it does not intend to conduct live racing, and is a

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204 pari-mutuel facility as defined in s. 550.002(23).

205 2. If a thoroughbred horse racing permitholder makes such
206 election and if such permitholder holds a slot machine license
207 when such election is made, the facility where such permit is
208 located:

209 a. Remains an eligible facility pursuant to s. 551.102(4),
210 and continues to be eligible for a slot machine license;

211 b. Is exempt from ss. 550.5251, 551.104(3) and (4)(c)1.,
212 and 551.114(2) and (4);

213 c. Is eligible, but not required, to be a guest track for
214 purposes of intertrack wagering and simulcasting; and

215 d. Remains eligible for a cardroom license, notwithstanding
216 any requirement in s. 849.086 for the conduct of live racing.

217 3. A thoroughbred horse racing permitholder that makes such
218 election shall comply with all contracts regarding contributions
219 by such permitholder to thoroughbred horse purse supplements or
220 breeders' awards entered into before the effective date of this
221 act pursuant to s. 551.104(10)(a). At the time of such election,
222 such permitholder shall file with the division an irrevocable
223 consent that such contributions shall be allowed to be used for
224 purposes and awards on live races at other thoroughbred horse
225 racing facilities in this state. This subparagraph and s.
226 551.104(10)(a) do not apply after December 31, 2020, to a
227 thoroughbred horse racing permitholder that made such election.

228 (d) A harness horse racing permitholder or a quarter horse
229 racing permitholder that has conducted live racing for at least
230 5 years irrevocably may elect not to conduct live racing if the
231 election is made within 30 days after the effective date of this
232 act. A permitholder that makes such election may retain its

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233 permit; is a pari-mutuel facility as defined in s. 550.002(23);
234 if such permitholder has been issued a slot machine license, the
235 facility where such permit is located remains an eligible
236 facility as defined in s. 551.102(4), continues to be eligible
237 for a slot machine license, and is exempt from ss. 551.104(3)
238 and (4)(c)1. and 551.114(2) and (4); is eligible, but not
239 required, to be a guest track and, if the permitholder is a
240 harness horse racing permitholder, to be a host track for
241 purposes of intertrack wagering and simulcasting pursuant to ss.
242 550.3551, 550.615, 550.625, and 550.6305; and, if such
243 permitholder has been issued a cardroom license, remains
244 eligible for a cardroom license notwithstanding any requirement
245 in s. 849.086 to conduct live racing performances.

246 (e) Permitholders may ~~shall be entitled to~~ amend their
247 applications through February 28.

248 (3) The division shall issue each license no later than
249 March 15. Each permitholder shall operate all performances at
250 the date and time specified on its license. The division shall
251 have the authority to approve minor changes in racing dates
252 after a license has been issued. The division may approve
253 changes in racing dates after a license has been issued when
254 there is no objection from any operating permitholder located
255 within 50 miles of the permitholder requesting the changes in
256 operating dates. In the event of an objection, the division
257 shall approve or disapprove the change in operating dates based
258 upon the impact on operating permitholders located within 50
259 miles of the permitholder requesting the change in operating
260 dates. In making the determination to change racing dates, the
261 division shall take into consideration the impact of such

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262 changes on state revenues. Notwithstanding any other provision
263 of law, and for the 2018-2019 fiscal year only, the division may
264 approve changes in racing dates for permitholders if the request
265 for such changes is received before May 31, 2018.

266 Section 3. Paragraph (c) of subsection (4) of section
267 551.104, Florida Statutes, is amended to read:

268 551.104 License to conduct slot machine gaming.-

269 (4) As a condition of licensure and to maintain continued
270 authority for the conduct of slot machine gaming, a the slot
271 machine licensee shall:

272 (c) 1. Conduct no less fewer than a full schedule of live
273 racing or games as defined in s. 550.002(11), unless conducting
274 less than a full schedule of live racing or games pursuant to s.
275 550.01215(1)(b) or (c). A permitholder's responsibility to
276 conduct a full schedule such number of live races or games, as
277 defined in s. 550.002(11), shall be reduced by the number of
278 races or games that could not be conducted due to the direct
279 result of fire, war, hurricane, or other disaster or event
280 beyond the control of the permitholder. A permitholder may
281 conduct live races or games at another pari-mutuel facility
282 pursuant to s. 550.475 if such permitholder has operated its
283 live races or games by lease for at least 5 consecutive years
284 immediately prior to the permitholder's application for a slot
285 machine license.

286 2. If not licensed to conduct a full schedule of live
287 racing or games, as defined in s. 550.002(11), pursuant to s.
288 550.01215(1)(b) or (c), remit for the payment of purses and
289 awards on live races an amount equal to the lesser of \$2 million
290 or 3 percent of its slot machine revenues from the previous

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291 state fiscal year to a slot machine licensee licensed to conduct
292 not fewer than 160 days of thoroughbred racing. A slot machine
293 licensee receiving funds under this subparagraph shall remit,
294 within 10 days after receipt, 10 percent of those funds to the
295 Florida Thoroughbred Breeders' Association, Inc., for the
296 payment of breeders', stallion, and special racing awards,
297 subject to the fee authorized in s. 550.2625(3). If no slot
298 machine licensee is licensed for at least 160 days of live
299 thoroughbred racing, no payments for purses are required. A slot
300 machine licensee that conducts no live racing and is making
301 purse and awards supplement payments due under agreements
302 entered pursuant to paragraph (10)(a) prior to the effective
303 date of this act may offset the total amount paid under such
304 agreements for purses and awards on or after July 1, 2017,
305 against any amount due under this subparagraph until the amount
306 paid and the amount due equal zero.

307 Section 4. Subsections (1), (2), and (4) of section
308 551.106, Florida Statutes, are amended to read:

309 551.106 License fee; tax rate; penalties.—

310 (1) LICENSE FEE.—

311 ~~(a)~~ Upon submission of the initial application for a slot
312 machine license, and annually thereafter, on the anniversary
313 date of the issuance of the initial license, the licensee must
314 pay to the division a nonrefundable license fee of ~~\$3 million~~
315 ~~for the succeeding 12 months of licensure. In the 2010-2011~~
316 ~~fiscal year, the licensee must pay the division a nonrefundable~~
317 ~~license fee of \$2.5 million for the succeeding 12 months of~~
318 ~~licensure. In the 2011-2012 fiscal year and for every fiscal~~
319 ~~year thereafter, the licensee must pay the division a~~

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320 ~~nonrefundable license fee~~ of \$2 million for the succeeding 12
321 months of licensure. The license fee must ~~shall~~ be deposited
322 into the Pari-mutuel Wagering Trust Fund of the Department of
323 Business and Professional Regulation to be used by the division
324 and the Department of Law Enforcement for investigations,
325 regulation of slot machine gaming, and enforcement of slot
326 machine gaming provisions under this chapter. These payments
327 must ~~shall~~ be accounted for separately from taxes or fees paid
328 pursuant to ~~the provisions of~~ chapter 550.

329 ~~(b) Prior to January 1, 2007, the division shall evaluate~~
330 ~~the license fee and shall make recommendations to the President~~
331 ~~of the Senate and the Speaker of the House of Representatives~~
332 ~~regarding the optimum level of slot machine license fees in~~
333 ~~order to adequately support the slot machine regulatory program.~~

334 (2) TAX ON SLOT MACHINE REVENUES.—

335 (a)1. The tax rate on slot machine revenues at each
336 facility is ~~shall be~~ 35 percent. Effective January 1, 2019, the
337 tax rate on slot machine revenues at each facility is 30
338 percent. Effective July 1, 2020, the tax rate on slot machine
339 revenues at each facility is 25 percent.

340 2.a. If, during any state fiscal year, the aggregate amount
341 of tax paid to the state by ~~all~~ slot machine licensees in
342 Broward and Miami-Dade Counties is less than the aggregate
343 amount of tax paid to the state by ~~all slot machine~~ licensees in
344 those counties in the 2017-2018 2008-2009 fiscal year, each slot
345 machine licensee shall pay to the state within 45 days after the
346 end of the state fiscal year a surcharge ~~equal to its pro rata~~
347 ~~share of an amount equal to the difference between the aggregate~~
348 ~~amount of tax paid to the state by all slot machine licensees in~~

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349 ~~the 2008-2009 fiscal year and the amount of tax paid during the~~
350 ~~fiscal year.~~

351 b. The amount of the surcharge to be paid by each such
352 licensee must be calculated by dividing the aggregate amount of
353 slot machine taxes paid to the state by all such slot machine
354 licensees in the 2017-2018 fiscal year by the aggregate amount
355 of slot machine taxes paid by all such licensees during the
356 applicable state fiscal year, multiplying the result by the
357 amount of slot machine taxes paid by the licensee during the
358 applicable state fiscal year, and then subtracting from that
359 product the amount of slot machine taxes paid by the licensee
360 during the applicable state fiscal year. However, the sum of the
361 taxes paid by a licensee pursuant to subparagraph 1. and any
362 surcharge due from the licensee may not exceed 35 percent of the
363 slot machine revenue of that licensee in the applicable state
364 fiscal year ~~Each licensee's pro rata share shall be an amount~~
365 ~~determined by dividing the number 1 by the number of facilities~~
366 ~~licensed to operate slot machines during the applicable fiscal~~
367 ~~year, regardless of whether the facility is operating such~~
368 ~~machines.~~

369 (b) The slot machine revenue tax imposed by this section
370 must ~~shall~~ be paid to the division for deposit into the Pari-
371 mutuel Wagering Trust Fund for immediate transfer by the Chief
372 Financial Officer for deposit into the Educational Enhancement
373 Trust Fund of the Department of Education. Any interest earnings
374 on the tax revenues must ~~shall~~ also be transferred to the
375 Educational Enhancement Trust Fund.

376 (c)1. Funds transferred to the Educational Enhancement
377 Trust Fund under paragraph (b) must ~~shall~~ be used to supplement

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378 public education funding statewide.

379 2. If necessary to comply with any covenant established
380 pursuant to s. 1013.68(4), s. 1013.70(1), or s. 1013.737(3),
381 funds transferred to the Educational Enhancement Trust Fund
382 under paragraph (b) must ~~shall~~ first be available to pay debt
383 service on lottery bonds issued to fund school construction in
384 the event lottery revenues are insufficient for such purpose or
385 to satisfy debt service reserve requirements established in
386 connection with lottery bonds. Moneys available pursuant to this
387 subparagraph are subject to annual appropriation by the
388 Legislature.

389 (4) TO PAY TAX; PENALTIES.—A slot machine licensee who
390 fails to make tax and any applicable surcharge payments as
391 required under this section is subject to an administrative
392 penalty of up to \$10,000 for each day the tax payment is not
393 remitted. All administrative penalties imposed and collected
394 must ~~shall~~ be deposited into the Pari-mutuel Wagering Trust Fund
395 of the Department of Business and Professional Regulation. If
396 any slot machine licensee fails to pay penalties imposed by
397 order of the division under this subsection, the division may
398 deny, suspend, revoke, or refuse to renew the license of the
399 permitholder or slot machine licensee.

400 Section 5. Present subsections (9) through (17) of section
401 849.086, Florida Statutes, are redesignated as subsections (10)
402 through (18), respectively, and a new subsection (9) is added to
403 that section, subsections (1) and (2) of that section are
404 amended, paragraph (g) is added to subsection (4) of that
405 section, and paragraph (b) of subsection (5), paragraph (c) of
406 subsection (7), paragraph (a) of subsection (8), present

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407 subsection (12), and paragraphs (d) and (h) of present
408 subsection (13) are amended, to read:

409 849.086 Cardrooms authorized.—

410 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature
411 to provide additional entertainment choices for the residents of
412 and visitors to the state, promote tourism in the state, provide
413 revenues to support the continuation of live pari-mutuel
414 activity, and provide additional state revenues through the
415 authorization of the playing of certain games in the state at
416 facilities known as cardrooms which are to be located at
417 licensed pari-mutuel facilities. To ensure the public confidence
418 in the integrity of authorized cardroom operations, this act is
419 designed to strictly regulate the facilities, persons, and
420 procedures related to cardroom operations. Furthermore, the
421 Legislature finds that authorized games of poker and dominoes ~~as~~
422 ~~herein defined~~ are considered to be pari-mutuel style games and
423 not casino gaming because the participants play against each
424 other instead of against the house.

425 (2) DEFINITIONS.—As used in this section:

426 (a) "Authorized game" means a game or series of games of
427 poker or dominoes which are played in conformance with this
428 section, including designated player games that are played in a
429 manner consistent with the rules and requirements specified in
430 the 1974 edition of Hoyle's Modern Encyclopedia of Card Games:
431 Rules of All the Basic Games and Popular Variations and
432 including three card poker ~~a nonbanking manner~~.

433 (b) "Banking game" means a game in which the house is a
434 participant in the game, taking on players, paying winners, and
435 collecting from losers ~~or in which the cardroom establishes a~~

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436 ~~bank against which participants play. A designated player game~~
437 is not a banking game.

438 (c) "Cardroom" means a facility where authorized games are
439 played for money or anything of value and to which the public is
440 invited to participate in such games and charged a fee for
441 participation by the operator of such facility. Authorized games
442 and cardrooms do not constitute casino gaming operations if
443 conducted at an eligible facility.

444 (d) "Cardroom management company" means any individual not
445 an employee of the cardroom operator, any proprietorship,
446 partnership, corporation, or other entity that enters into an
447 agreement with a cardroom operator to manage, operate, or
448 otherwise control the daily operation of a cardroom.

449 (e) "Cardroom distributor" means any business that
450 distributes cardroom paraphernalia such as card tables, betting
451 chips, chip holders, dominoes, dominoes tables, drop boxes,
452 banking supplies, playing cards, card shufflers, and other
453 associated equipment to authorized cardrooms.

454 (f) "Cardroom operator" means a licensed pari-mutuel
455 permitholder that ~~which~~ holds a valid permit and license issued
456 by the division pursuant to chapter 550 and which also holds a
457 valid cardroom license issued by the division pursuant to this
458 section which authorizes such person to operate a cardroom and
459 to conduct authorized games in such cardroom.

460 (g) "Designated player" means the player identified for
461 each game by a button that rotates clockwise before each game
462 begins as the player in the dealer position and seated at a
463 traditional player position in a designated player game who pays
464 winning players and collects from losing players.

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465 (h) "Designated player game" means a game in which the
466 players compare their cards only to the cards of the designated
467 player or to a combination of cards held by the designated
468 player and cards common and available for play by all players.

469 (i)~~(g)~~ "Division" means the Division of Pari-mutuel
470 Wagering of the Department of Business and Professional
471 Regulation.

472 (j)~~(h)~~ "Dominoes" means a game of dominoes typically played
473 with a set of 28 flat rectangular blocks, called "bones," which
474 are marked on one side and divided into two equal parts, with
475 zero to six dots, called "pips," in each part. The term also
476 includes larger sets of blocks that contain a correspondingly
477 higher number of pips. The term also means the set of blocks
478 used to play the game.

479 (k)~~(i)~~ "Gross receipts" means the total amount of money
480 received by a cardroom from any person for participation in
481 authorized games.

482 (l)~~(j)~~ "House" means the cardroom operator and all
483 employees of the cardroom operator.

484 (m)~~(k)~~ "Net proceeds" means the total amount of gross
485 receipts received by a cardroom operator from cardroom
486 operations less direct operating expenses related to cardroom
487 operations, including labor costs, admission taxes only if a
488 separate admission fee is charged for entry to the cardroom
489 facility, gross receipts taxes imposed on cardroom operators by
490 this section, the annual cardroom license fees imposed by this
491 section on each table operated at a cardroom, and reasonable
492 promotional costs excluding officer and director compensation,
493 interest on capital debt, legal fees, real estate taxes, bad

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494 debts, contributions or donations, or overhead and depreciation
 495 expenses not directly related to the operation of the cardrooms.

496 (n)~~(l)~~ "Rake" means a set fee or percentage of the pot
 497 assessed by a cardroom operator for providing the services of a
 498 dealer, table, or location for playing the authorized game.

499 (o)~~(m)~~ "Tournament" means a series of games that have more
 500 than one betting round involving one or more tables and where
 501 the winners or others receive a prize or cash award.

502 (4) AUTHORITY OF DIVISION.—The Division of Pari-mutuel
 503 Wagering of the Department of Business and Professional
 504 Regulation shall administer this section and regulate the
 505 operation of cardrooms under this section and the rules adopted
 506 pursuant thereto, and is hereby authorized to:

507 (g) Establish a reasonable period to respond to requests
 508 from a licensed cardroom; provided however, the division has a
 509 maximum of 45 days to approve:

510 1. A cardroom's internal controls or provide the cardroom
 511 with a list of deficiencies as to the internal controls.

512 2. Rules for a new authorized game submitted by a licensed
 513 cardroom or provide the cardroom with a list of deficiencies as
 514 to those rules.

515
 516 No later than 10 days after the submission of revised internal
 517 controls or revised rules addressing the deficiencies identified
 518 by the division, the division must review and approve or reject
 519 the revised internal controls or revised rules.

520 (5) LICENSE REQUIRED; APPLICATION; FEES.—No person may
 521 operate a cardroom in this state unless such person holds a
 522 valid cardroom license issued pursuant to this section.

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523 (b) After the initial cardroom license is granted, the
524 application for the annual license renewal shall be made in
525 conjunction with the applicant's annual application for its
526 pari-mutuel license. If a permitholder has operated a cardroom
527 during any of the 3 previous fiscal years and fails to include a
528 renewal request for the operation of the cardroom in its annual
529 application for license renewal, the permitholder may amend its
530 annual application to include operation of the cardroom. ~~In~~
531 ~~order for a cardroom license to be renewed the applicant must~~
532 ~~have requested, as part of its pari-mutuel annual license~~
533 ~~application, to conduct at least 90 percent of the total number~~
534 ~~of live performances conducted by such permitholder during~~
535 ~~either the state fiscal year in which its initial cardroom~~
536 ~~license was issued or the state fiscal year immediately prior~~
537 ~~thereto if the permitholder ran at least a full schedule of live~~
538 ~~racing or games in the prior year. If the application is for a~~
539 ~~harness permitholder cardroom, the applicant must have requested~~
540 ~~authorization to conduct a minimum of 140 live performances~~
541 ~~during the state fiscal year immediately prior thereto. If more~~
542 ~~than one permitholder is operating at a facility, each~~
543 ~~permitholder must have applied for a license to conduct a full~~
544 ~~schedule of live racing.~~

545 (7) CONDITIONS FOR OPERATING A CARDROOM.—

546 (c) A cardroom operator must at all times employ and
547 provide a nonplaying live dealer at ~~for~~ each table on which
548 authorized card games ~~which traditionally use a dealer~~ are
549 conducted ~~at the cardroom~~. Such dealers may not have a
550 participatory interest in any game other than the dealing of
551 cards and may not have an interest in the outcome of the game.

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552 The providing of such dealers by a licensee does not constitute
553 the conducting of a banking game by the cardroom operator.

554 (8) METHOD OF WAGERS; LIMITATION.—

555 (a) ~~No~~ Wagering may not be conducted using money or other
556 negotiable currency. Games may only be played utilizing a
557 wagering system whereby all players' money is first converted by
558 the house to tokens or chips that may ~~which shall~~ be used for
559 wagering only at that specific cardroom.

560 (9) DESIGNATED PLAYER GAMES AUTHORIZED.—

561 (a) A cardroom operator may offer designated player games
562 consisting of players making wagers against the designated
563 player. However, not more than 50 percent of the total licensed
564 tables in a cardroom may offer designated player games. The
565 designated player must be licensed pursuant to paragraph (6) (b).
566 Employees of a designated player also must be licensed, and the
567 designated player shall pay, in addition to the business
568 occupational fee established pursuant to paragraph (6) (i), an
569 employee occupational license fee that may not exceed \$500 per
570 employee for any 12-month period.

571 (b) A cardroom operator may not serve as a designated
572 player in any game. The cardroom operator may not have a
573 financial interest in a designated player in any game. A
574 cardroom operator may collect a rake in accordance with the rake
575 structure posted at the table.

576 (c) If there are multiple designated players at a table,
577 the dealer button shall be rotated in a clockwise rotation after
578 each hand.

579 (d) A cardroom operator may not allow a designated player
580 to pay an opposing player who holds a lower-ranked hand.

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581 (e) A designated player may not be required by the rules of
582 a game or by the rules of a cardroom to cover more than 10 times
583 the maximum wager for players participating in any one game.

584 (f) The cardroom, or any cardroom licensee, may not
585 contract with, or receive compensation other than a posted table
586 rake from, any player to participate in any game to serve as a
587 designated player.

588 (13)~~(12)~~ PROHIBITED ACTIVITIES.—

589 (a) A ~~No~~ person licensed to operate a cardroom may not
590 conduct any banking game or any game not specifically authorized
591 by this section.

592 (b) A ~~No~~ person who is younger than ~~under~~ 18 years of age
593 may not be permitted to hold a cardroom or employee license, ~~or~~
594 to engage in any game conducted therein.

595 (c) With the exception of mechanical card shufflers, ~~No~~
596 electronic or mechanical devices, ~~except mechanical card~~
597 ~~shufflers,~~ may not be used to conduct any authorized game in a
598 cardroom.

599 (d) ~~No~~ Cards, game components, or game implements may not
600 be used in playing an authorized game unless they have ~~such has~~
601 been furnished or provided to the players by the cardroom
602 operator.

603 (14)~~(13)~~ TAXES AND OTHER PAYMENTS.—

604 (d)1. Each ~~greyhound and jai alai~~ permitholder that
605 operates a cardroom facility shall use at least 4 percent of
606 such permitholder's cardroom monthly gross receipts to
607 supplement ~~greyhound~~ purses and awards or jai alai prize money,
608 respectively, during the permitholder's next ensuing pari-mutuel
609 meet.

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610 2. A cardroom license or renewal thereof may not be issued
611 to a permitholder conducting less than a full schedule of live
612 racing or games, as defined in s. 550.002(11), pursuant to s.
613 550.01215(1)(b), (c), or (d) unless the applicant has on file
614 with the division a binding written contract with a thoroughbred
615 permitholder that is licensed to conduct live racing and that
616 does not possess a slot machine license. This contract must
617 provide that the permitholder will pay an amount equal to 4
618 percent of its monthly cardroom gross receipts to the
619 thoroughbred permitholder conducting the live racing for
620 exclusive use as purses and awards during the current or ensuing
621 live racing meet of the thoroughbred permitholder. A
622 thoroughbred permitholder receiving funds under this
623 subparagraph shall remit, within 10 days after receipt, 10
624 percent of those funds to the Florida Thoroughbred Breeders'
625 Association, Inc., for the payment of breeders', stallion, and
626 special racing awards, subject to the fee authorized in s.
627 550.2625(3). If there is not a thoroughbred permitholder that
628 does not possess a slot machine license, payments for purses are
629 not required, and the cardroom licensee shall retain such funds
630 for its use. Each thoroughbred and harness horse racing
631 permitholder that operates a cardroom facility shall use at
632 least 50 percent of such permitholder's cardroom monthly net
633 proceeds as follows: 47 percent to supplement purses and 3
634 percent to supplement breeders' awards during the permitholder's
635 next ensuing racing meet.

636 ~~3. No cardroom license or renewal thereof shall be issued~~
637 ~~to an applicant holding a permit under chapter 550 to conduct~~
638 ~~pari-mutuel wagering meets of quarter horse racing unless the~~

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2018840__

639 ~~applicant has on file with the division a binding written~~
640 ~~agreement between the applicant and the Florida Quarter Horse~~
641 ~~Racing Association or the association representing a majority of~~
642 ~~the horse owners and trainers at the applicant's eligible~~
643 ~~facility, governing the payment of purses on live quarter horse~~
644 ~~racers conducted at the licensee's pari-mutuel facility. The~~
645 ~~agreement governing purses may direct the payment of such purses~~
646 ~~from revenues generated by any wagering or gaming the applicant~~
647 ~~is authorized to conduct under Florida law. All purses shall be~~
648 ~~subject to the terms of chapter 550.~~

649 (h) One-quarter of the moneys deposited into the Pari-
650 mutuel Wagering Trust Fund pursuant to paragraph (g) shall, by
651 October 1 of each year, be distributed to the local government
652 that approved the cardroom under subsection (17) ~~(16)~~; however,
653 if two or more pari-mutuel racetracks are located within the
654 same incorporated municipality, the cardroom funds shall be
655 distributed to the municipality. If a pari-mutuel facility is
656 situated in such a manner that it is located in more than one
657 county, the site of the cardroom facility shall determine the
658 location for purposes of disbursement of tax revenues under this
659 paragraph. The division shall, by September 1 of each year,
660 determine: the amount of taxes deposited into the Pari-mutuel
661 Wagering Trust Fund pursuant to this section from each cardroom
662 licensee; the location by county of each cardroom; whether the
663 cardroom is located in the unincorporated area of the county or
664 within an incorporated municipality; and, the total amount to be
665 distributed to each eligible county and municipality.

666 Section 6. The Division of Law Revision and Information is
667 directed to replace the phrase "the effective date of this act"

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2018840__

668 wherever it occurs in this act with the date this act becomes a
669 law.

670 Section 7. This act shall take effect upon becoming a law.

APPEARANCE RECORD

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

1/17/18 Meeting Date

840 Bill Number (if applicable)

Topic Gaming

Amendment Barcode (if applicable)

Name Lauren Jackson

Job Title Consultant w/ Ericks Consultants.

Address 2055 Adams St

Phone 850-224-0880

Tallahassee FL 32301

Email Lauren@ericksconsultants.com

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

Waive Speaking: In Support [] Against [] (The Chair will read this information into the record.)

Representing Florida Standard Bred Breeders Association

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/17/19
Meeting Date

840
Bill Number (if applicable)

Topic SB 840 GAMING

Amendment Barcode (if applicable)

Name JENNIFER HOBGOOD

Job Title DIRECTOR, STATE LEGISLATION, SOUTHEAST REGION

Address PO BOX 20554

Phone 445 5245

Street

TALLAHASSEE

FL

32306

City

State

Zip

Email jen.hobgood@aspcan.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ASPCA (AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/17/18
Meeting Date

840
Bill Number (if applicable)

Topic GAMING

Amendment Barcode (if applicable)

Name DON GOLDSTEIN

Job Title _____

Address 12321 BEAMFIELD DR
Street

Phone 813-361-7146

RIVERVIEW FL 33579
City State Zip

Email DGOLDSTEIN7@TAMPABAY.RA.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GREYHOUND ROUTE & ASSOCIATIONS OF TAMPA BAY (GREAT)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

1/17/18
~~01/17/18~~

THE FLORIDA SENATE
APPEARANCE RECORD

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

SB 840

Meeting Date

Bill Number (if applicable)

Topic Gaming

Amendment Barcode (if applicable)

Name LONNY POWELL

Job Title CEO & EXECUTIVE VIP

Address 311 E. Park Av.

Phone 850.924.5081

Street Tallahassee
City FL State FL Zip 32301

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA THOROUGHBRED BREEDERS & OWNERS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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APPEARANCE RECORD

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

11/17/18

Meeting Date

846

Bill Number (if applicable)

Topic Decoupling Greyhound

Amendment Barcode (if applicable)

Name ~~800~~ Kelly R Faircloth

Job Title _____

Address 2207 W. Wilder Ave.
Street

Phone 813-601-1209

Tampa FL 33614
City State Zip

Email KFaircloth2002@
yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

11/17/18
Meeting Date

840

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JEFF KOTTKAMP

Job Title _____

Address _____

Phone _____

Street

Tallahassee FL

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Grayhound Assoc.

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/18/17
Meeting Date

840
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Director of Policy & Communications

Address 4853 S. Orange Avenue, Suite C Phone _____

Street

Orlando

City

FL

State

32806

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Family Action

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

APPEARANCE RECORD

SB 840

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

1/17/18

Meeting Date

~~SB 840~~

Bill Number (if applicable)

Topic Greyhound decoupling

Amendment Barcode (if applicable)

Name Carey Theil

Job Title Executive Director

Address 7 Central St., Suite 210

Phone 617-501-6276

Street

Arlington MA 02476

Email carey@grey2kusa.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GREY2K USA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/17/18

Meeting Date

840

Bill Number (if applicable)

Topic Gaming Bill

Amendment Barcode (if applicable)

Name Kate Macfall

Job Title State director for Humane Society

Address _____
Street

Phone 850 508-1001

City

State

Zip

Email kmacfall@hsos.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Humane Society of the United States

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-17-18
Meeting Date

840
Bill Number (if applicable)
831572
Amendment Barcode (if applicable)

Topic _____

Name Marc Dunbar

Job Title _____

Address 215 S. Monroe St.

Phone 850-425-7800

Tallahassee FL 32301
City State Zip

Email mdunbar@joneswalker.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Stronach Group / Gulfstream Park

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education, *Chair*
Appropriations Subcommittee on the
Environment and Natural Resources, *Vice Chair*
Regulated Industries, *Vice Chair*
Agriculture
Environmental Preservation and Conservation
Health Policy
Transportation

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL

14th District

January 17, 2018

Regulated Industries Committee
330 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Re: Voting for Senate Regulated Industries Committee on January 17, 2018

Dear Staff Director McSwain:

Due to my presence being required in the Senate Appropriations Subcommittee on Higher Education meeting in order to present one of my sponsored bills, SB 540, I was unable to cast my vote for the following bill before our Senate Regulated Industries Committee today. Had I been present I would have voted the following way:

1. SB 840; Gaming by Sen. Hutson – No

Sincerely,

Dorothy L. Hukill
State Senator, District 14

Cc: Lynn Koon, Committee Administrative Assistant, Senate Regulated Industries Committee

REPLY TO:

- 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- 434 Delannoy Avenue, Suite 204, Cocoa, Florida 32922 (321) 634-3549
- 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

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 Regulated Industries

BILL: SB 674

INTRODUCER: Senator Young

SUBJECT: Steroid Use in Racing Greyhounds

DATE: January 17, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	Favorable
2.	_____	_____	<u>AG</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 674 amends s. 550.2415, F.S., to provide that a positive test result for anabolic steroids¹ in a racing greyhound based on samples taken from the greyhound before or after a race is a violation of s. 550.2415, F.S. That statute prohibits racing of an animal that has been impermissibly medicated or determined to have a prohibited substance present in urine or other samples taken from the animal before or immediately after a race. Under current law and the current rules of the Division of Pari-Mutuel Wagering (division) of the Department of Business and Professional Regulation (DBPR), testosterone, an anabolic steroid, is permitted to be used for the control of the reproductive cycle in female greyhounds.

SB 674 has an indeterminate fiscal impact on state government. *See* Section V. Fiscal Impact Statement.

The bill provides an effective date of July 1, 2018.

II. Present Situation:

The racing of an animal (horse or greyhound) that has been impermissibly medicated or determined to have a prohibited substance present, is a violation of s. 550.2415, F.S. However, the Division of Pari-mutuel Wagering (division) of the Department of Business and Professional Regulation (DBPR), may adopt rules specifying acceptable levels of naturally occurring substances in untreated animals, acceptable levels of environmental contaminants, and trace levels of substances in test samples.²

¹ Steroids include drugs used to relieve swelling and inflammation, such as prednisone and cortisone; vitamin D; and some sex hormones, such as testosterone and estradiol. *See* <http://www.medicinenet.com/script/main/art.asp?articlekey=5556> (last visited Jan. 15, 2018).

² *See* s. 550.2415(1)(b), F.S., and Fla. Admin. Code R. 61D-6.007 (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.007> (last visited Jan. 15, 2018). An administrative proceeding

Classification of a substance in a sample as permissible or impermissible may be dependent upon whether:

- The substance is administered within or outside the allowed time frame before a race is scheduled to begin;
- The racing animal is approved for administration of the substance, or is qualified by gender to receive it;
- The level of the substance exceeds acceptable levels set by administrative rule; and
- The method of administration of the substance is prohibited.³

Certain medications may be administered to racing greyhounds in certain dosages under limited conditions, including the administration of:

- Testosterone or testosterone-like substances, when used for the control of estrus in female racing greyhounds, subject to certain conditions;⁴ and
- Sulfa drugs (antibiotics)⁵ under certain conditions.⁶

challenging Rule 61D-6.007 as an invalid exercise of delegated legislative authority and on the basis that the rule arbitrarily fails to address environmental contamination of urine samples is pending before the Florida Division of Administrative Hearings. See *McClellan and Nemeth v. Dep't of Bus. and Prof. Reg.*, Case No. 17-005238RU at <https://www.doah.state.fl.us/ALJ/searchDOAH/detail.asp> (last visited Jan. 15, 2018) (*McClellan*). In a Partial Summary Final Order issued December 22, 2017, Administrative Law Judge Lawrence Stevenson, found the **method** of collecting, handling, and testing urine samples from racing greyhounds trained by the petitioners was invalid, because the DBPR, in violation of Florida law, continued to rely on a portion of a 2010 procedural training manual relating to urine sampling “even after being ordered to cease all reliance on [the training manual’s sampling procedure]” in a prior administrative proceeding. *Id.* at page 9, citing *Dawson v. Dep't of Bus. and Prof. Reg.*, Case No. 14-5276RU (Fla. DOAH Jan. 29, 2015) (*Dawson*). In the *Dawson* case, the portion of the training manual relating to urine sampling was found to be an unadopted rule, and the DBPR was ordered to immediately discontinue all reliance on it, or any substantially similar statement. See *Dawson* at page 32. The DBPR has appealed the *McClellan* ruling to the First District Court of Appeal. See *Dept' of Bus. and Prof. Reg., Div. of Pari-Mutuel Wagering v. McClellan*, Case No. 18-0128 (Fla. 1st DCA), at http://jweb.flcourts.org/pls/ds/ds_docket (last visited Jan. 15, 2018).

³ See Fla. Admin. Code R. 61D-6.007 (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.007> (last visited Jan. 15, 2018).

⁴ Pursuant to Fla. Admin. Code R. 61D-6.007(1)(d) (2017), track veterinarians may administer injectable testosterone to female racing greyhounds to control their reproductive cycle (estrus control) (limited to administration that occurs on the ground of the pari-mutuel permit holder). Kennel owners may use their regular Florida licensed veterinarian or may enter into a collective agreement for the services of a Florida licensed veterinarian to administer injectable testosterone as permitted. The administration of oral testosterone is permitted if it is validly prescribed and properly labeled. Veterinarians that administer injectable or oral testosterone are responsible for maintaining security, inventory, and a retrievable records/log in accordance with the Drug Enforcement Agency (DEA) regulations.

Until December 2017, the ARCI Model Rules of Racing (Model Rules) completely prohibited the use of anabolic steroids in racing greyhounds at any stage of their training and racing careers; the Model Rules were amended in December 2017 to provide an exception that allows the use of the anabolic steroid, testosterone, so long as it is prescribed by a licensed veterinarian for the control of estrus in female racing greyhounds. See ARCI-018-020 (16) *Medications and Drugs*, Model Rules at pp. 345-347 (pp. 342-344 of the printed document), and the footnote therein relating to “added ‘estrus control language’” at http://arci.blob.core.windows.net/webdocs/2017%2012%20Model_Rules_V8.2.pdf (last visited Jan. 15, 2018).

⁵ A “sulfa drug” is an antibiotic used to treat bacterial and some fungal infections. See <http://www.medicinenet.com/script/main/art.asp?articlekey=14498> (last visited Jan. 15, 2018).

⁶ Under Fla. Admin. Code R. 61D-6.007(2) (2017), the racing greyhound must be under the care of a Florida licensed veterinarian who also holds an occupational license pursuant to s. 550.105(2)(a), F.S. The sulfa drug must be prescribed by a Florida licensed veterinarian who also holds an occupational license pursuant to s. 550.105(2)(a), F.S., and the sulfa drug may not be administered within 24 hours prior to the officially scheduled post time of the race.

Certain medications at certain urinary concentrations are not reportable by the state laboratory as violations.⁷

All prescription medication, regardless of method of administration, must be safeguarded under lock and key when not being actively administered.⁸

Each racetrack permitholder must maintain a detention enclosure for securing urine, blood, or other samples from racing animals.⁹ The trainer of record for each animal is responsible for the condition of the animals he or she enters to race,¹⁰ and for securing all prescribed medications, over-the-counter medicines, and natural or synthetic medicinal compounds.¹¹

Samples of blood, urine, saliva, or any other bodily fluid may be collected from a race animal immediately before and immediately after it has raced.¹² If racing officials find, through reasonably reliable evidence, that substances other than permissible substances have been administered, or that otherwise permissible substances have been administered during prohibited periods before the time of a race, evidence of illegal or impermissible substances may be confiscated and the racing animal may be prohibited from racing in the race (scratched).¹³

The winner of every race is sent to the detention enclosure for examination by an authorized representative of the division and the taking of samples to monitor and detect both permissible and impermissible substances.¹⁴ Any other animals that participated in the race may be designated for examination and testing by the stewards, judges, racetrack veterinarian, or a division representative.¹⁵

All samples are collected by staff of the Office of Operations of the division and sent to the University of Florida College of Medicine Racing Laboratory (state laboratory) for analysis.¹⁶

⁷ See Fla. Admin. Code R. 61D-6.007(3) (2017). These include the detection of: (i) caffeine at a urinary concentration less than or equal to 200 nanograms per milliliter; (ii) theophylline and theobromine at a urinary concentration less than or equal to 400 nanograms per milliliter; (iii) procaine at a urinary concentration less than or equal to 2 micrograms per milliliter; and (iv) flunixin at a urinary concentration less than or equal to 250 nanograms per milliliter. A nanogram is one billionth of a gram and a microgram is one millionth of a gram; a milliliter is one thousandth of a liter, or .03381 fluid ounces. See <https://www.thefreedictionary.com/nanogram>, <https://www.thefreedictionary.com/microgram>, <https://www.thefreedictionary.com/milliliter>, and <http://www.metric-conversions.org/volume/milliliters-to-ounces.htm> (last visited Jan. 15, 2018).

⁸ See Fla. Admin. Code R. 61D-6.007(4) (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.007> (last visited Jan. 15, 2018).

⁹ See Fla. Admin. Code R. 61D-6.002(2) (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.002> (last visited Jan. 15, 2018).

¹⁰ See Fla. Admin. Code R. 61D-6.002(1) (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.002> (last visited Jan. 15, 2018).

¹¹ See Fla. Admin. Code R. 61D-6.003 (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.003> (last visited Jan. 15, 2018). Prescription drugs must be prescribed by a licensed veterinarian who has a current veterinarian-patient relationship, and all substances must have a proper label.

¹² Section 550.2415(1)(a), F.S.

¹³ See s. 550.2415(7) and (8), F.S., and Fla. Admin. Code R. 61D-6.005 (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.005> (last visited Jan. 15, 2018).

¹⁴ See Fla. Admin. Code R. 61D-6.005(1) (2017).

¹⁵ *Id.*

¹⁶ See *85th Annual Report, Fiscal Year 2015-2016*, (85th Annual Report) at page 31, at <http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2015-2016--85th--20170125.pdf> last

Blood specimens must be collected from racing animals by veterinarians employed by the division or any licensed veterinarian hired or retained by the division, and the collection must be witnessed by the animal’s trainer, owner, or designee.¹⁷

The division, in its 85th Annual Report, noted that during Fiscal Year 2015-2016, the state laboratory processed 76,219 samples and performed 313,600 analyses.¹⁸

Sample Type	Horse Urine/Blood	Greyhound Urine	Investigative
Samples Received	16,945	58,274	2
Samples Analyzed	17,001	39,031	2
Number of Analyses	77,268	236,332	2
Positive Results	343	18	n/a

If a prohibited substance is found in a race-day specimen, it is evidence that the substance was administered to, and was in the racing animal while racing.¹⁹ Test results are confidential and exempt from public records for 10 days after the testing of all samples collected on a particular day have been completed and any positive results have been reported to the director of the division.²⁰ A prosecution by the division against a licensee for a violation must begin within ninety days after the violation.²¹

The division must notify the owner or trainer, the stewards, and the appropriate horsemen’s association of all drug test results.²² At the request of either the affected owner or trainer, the division must send the sample to an independent laboratory for analysis.

If the positive result found by the state laboratory is not confirmed by the analysis made by the independent laboratory, no further administrative or disciplinary action may be pursued by the division.²³ If the positive result is confirmed, or if the volume of the secondary sample is insufficient to do so, then administrative action may proceed.²⁴ There must be a good faith attempt by the division to obtain a sufficient quantity of fluid specimens to allow both a primary test to be made by the state laboratory and a secondary test to be made by an independent laboratory.²⁵

The mere presence of a prohibited substance in a racing animal is evidence of the violation.²⁶ The fine for violations may be up to \$10,000 or the race winnings (purse or sweepstakes

visited Jan. 15, 2018). The division annually contracts with the state laboratory for these services. The DBPR has not yet issued its 86th Annual Report for Fiscal Year 2016-2017.

¹⁷ See Fla. Admin. Code R. 61D-6.005 (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.005> (last visited Jan. 15, 2018).

¹⁸ See 85th Annual Report, *supra* note 16, at page 31.

¹⁹ Section 550.2415(1)(c), F.S.

²⁰ See ss. 550.2415(1)(a), F.S.

²¹ See s. 550.2415(4), F.S.

²² Section 550.2415(5)(a), F.S.

²³ Section 550.2415(5)(b), F.S.

²⁴ Section 550.2415(5)(c), F.S.

²⁵ *Id.*

²⁶ See s. 550.2415(1)(c), F.S.

amount), whichever is greater.²⁷ Prosecutions must be started within ninety days of the race date.²⁸

The penalty schedule for violations incorporates the Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014 (Uniform Classification Guidelines), by ARCI.²⁹ Pursuant to Florida Administrative Code Rule 61D-6.012, relating to penalty guidelines for drug violations in greyhounds, penalties are imposed when the division finds certain substances have been identified by the state laboratory in a urine sample or blood sample collected from a greyhound participating in a pari-mutuel event, which substances include any drug or medication (unapproved drugs or medications) that:

- Is not approved for veterinary use in the United States by the Food and Drug Administration;
- Cannot be detected by the state laboratory in a urine or blood sample unless the medication was administered within 24 hours of the race; or
- Is detected in urine or blood concentrations that indicate a dosage level that would constitute a threat to the health and safety of the greyhound.³⁰

A first violation may result in a fine between \$1,000 and \$2,500, and a license suspension up to one year or a license revocation. Any subsequent violation may result in a fine between \$2,500 and \$5,000 and a license revocation.³¹

Penalties for the presence of other medications or drugs, other than unapproved drugs or medications described above, are based upon the classification of the medication or drug found in the Uniform Classification Guidelines.³²

III. Effect of Proposed Changes:

SB 674 amends s. 550.2415, F.S., to provide that a positive test result for anabolic steroids³³ in a racing greyhound before or after a race is a violation of s. 550.2415, F.S. That statute prohibits racing of an animal that has been impermissibly medicated or determined to have a prohibited substance present in urine or other samples taken from the animal before or immediately after a race. Anabolic steroids (testosterone) are drugs whose uses include the control of the reproductive cycle in female greyhounds.³⁴

²⁷ See s. 550.2415(3)(a), F.S.

²⁸ See s. 550.2415(4), F.S.

²⁹ See s. 550.2415(7)(c), F.S.

³⁰ See Fla. Admin. Code R. 61D-6.012(1)(a) (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.012> (last visited Jan. 15, 2018). An administrative proceeding challenging Rule 61D-6.012 as an invalid exercise of delegated legislative authority and on the basis that the rule arbitrarily fails to address environmental contamination of urine samples is pending before the Florida Division of Administrative Hearings. See *McClellan and Nemeth v. Dep't of Bus. and Prof. Reg.*, Case No. 17-005238RU at <https://www.doah.state.fl.us/ALJ/searchDOAH/detail.asp> (last visited Jan. 15, 2018) and the summary of the proceeding at footnote 2 *infra*.

³¹ *Id.*

³² See Fla. Admin. Code R. 61D-6.012(2) (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.012> (last visited Jan. 15, 2018).

³³ Steroids include drugs used to relieve swelling and inflammation, such as prednisone and cortisone; vitamin D; and some sex hormones, such as testosterone and estradiol. See <http://www.medicinenet.com/script/main/art.asp?articlekey=5556> (last visited Jan. 15, 2018).

³⁴ See Fla. Admin. Code R. 61D-6.007 (2017) at <https://www.flrules.org/gateway/ruleNo.asp?id=61D-6.007> (last visited Jan. 15, 2018).

The administration of testosterone or testosterone-like substances for the control of estrus in female racing greyhounds, is permitted by rule of the division, subject to certain conditions.³⁵ Under the bill, no such use of those substances will be permissible.

The bill does not modify the existing procedures for determining violations. Any affected licensee would have the same due process rights, including the opportunity for a hearing, which law currently affords for alleged violations under s. 550.2415, F.S.

The bill provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 674 will have an indeterminate impact on greyhound tracks, and the owners and trainers of greyhounds. The impact will depend on the frequency that anabolic steroids are found to be present in greyhounds engaged in racing in Florida as a result of testing of samples taken from greyhounds before or immediately after a race.

C. Government Sector Impact:

The DBPR estimates the fiscal impact to state government to be minimal but indeterminate. The fiscal impact will depend upon the extent that violations and associated fines occur as a result of a greyhounds testing positive for the presence of anabolic steroids.³⁶

³⁵ *Id.*

³⁶ See 2018 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 674, dated Nov. 27, 2017 (on file with Senate Committee on Regulated Industries) at page 4.

The DBPR reports that additional expenditures may be needed for the necessary testing for anabolic steroids. At present, the division contracts with the University of Florida, College of Medicine Racing Laboratory (state laboratory) to provide testing services. The current appropriation for that testing is \$2,266,000.³⁷ The state laboratory has indicated to the division that its testing procedures must be amended to include detection of anabolic steroids, and it must purchase a liquid chromatography-mass spectrometer to test approximately 37,000 greyhound racing samples annually (a cost of approximately \$400,000).³⁸

Further, the state laboratory may require building upgrades (a cost of approximately \$50,000) including electrical services, a nitrogen supply system, installation of a new venting system to accommodate additional fumes, and the purchase of a supporting bench to accommodate the additional equipment, to perform the additional testing the bill would require.³⁹ Additional state laboratory personnel will be required to process samples, review data, develop methodology, and maintain equipment (a cost of approximately \$100,000), and the state laboratory may need to amend the existing contract with the division to cover the additional costs (totaling approximately \$550,000).⁴⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 674 provides that s. 550.2415, F.S., is violated if a sample from a greyhound reflects the presence of anabolic steroids, resulting in a positive test. The term “greyhound” used in the bill is more expansive than the term “racing greyhounds,” defined in s. 550.002(29), F.S., to mean greyhounds used, or bred, raised, or trained to be used, in racing at a pari-mutuel facility and registered with the National Greyhound Association.

According to the DBPR, the testing of samples from male greyhounds may also result in positive tests if levels of naturally occurring anabolic steroids (e.g., testosterone) are not considered and addressed.⁴¹

VIII. Statutes Affected:

This bill substantially amends section 550.2415 of the Florida Statutes.

³⁷ *Id.*

³⁸ *Id.* at page 5.

³⁹ *Id.*

⁴⁰ *Id.* at pages 4-5.

⁴¹ *Id.* at page 5.

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.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: SB 674
FINAL ACTION: Favorable
MEETING DATE: Wednesday, January 17, 2018
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Benacquisto						
X		Bracy						
X		Brandes						
	X	Braynon						
X		Gibson						
X		Steube						
	X	Thurston						
X		Young						
		Hukill, VICE CHAIR						
X		Hutson, CHAIR						
7	2							
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

By Senator Young

18-00087-18

2018674__

1 A bill to be entitled
2 An act relating to steroid use in racing greyhounds;
3 amending s. 550.2415, F.S.; providing that a positive
4 test result for anabolic steroids in certain samples
5 taken from a greyhound violates the prohibition on the
6 racing of animals that are impermissibly medicated or
7 determined to have a prohibited substance present;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Paragraph (a) of subsection (1) of section
13 550.2415, Florida Statutes, is amended to read:

14 550.2415 Racing of animals under certain conditions
15 prohibited; penalties; exceptions.—

16 (1) (a) The racing of an animal that has been impermissibly
17 medicated or determined to have a prohibited substance present
18 is prohibited. It is a violation of this section for a person to
19 impermissibly medicate an animal or for an animal to have a
20 prohibited substance present resulting in a positive test for
21 such medications or substances based on samples taken from the
22 animal before or immediately after the racing of that animal. It
23 is a violation of this section for a greyhound to have anabolic
24 steroids present resulting in a positive test for such steroids
25 based on samples taken from the greyhound before or immediately
26 after the racing of that greyhound. Test results and the
27 identities of the animals being tested and of their trainers and
28 owners of record are confidential and exempt from s. 119.07(1)
29 and from s. 24(a), Art. I of the State Constitution for 10 days

18-00087-18

2018674__

30 after testing of all samples collected on a particular day has
31 been completed and any positive test results derived from such
32 samples have been reported to the director of the division or
33 administrative action has been commenced.

34 Section 2. This act shall take effect July 1, 2018.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/17/18
Meeting Date

674
Bill Number (if applicable)

Topic STEROIDS IN GREYHOUND RACING

Amendment Barcode (if applicable)

Name JENNIFER HOBGOOD

Job Title DIRECTOR OF STATE LEGISLATION

Address PO BOX 20554 Phone 445 5245
Street

TALLAHASSEE FL 32306 Email jen.hobgood@aspcar.org
City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ASPCA AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

APPEARANCE RECORD

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

1/17/18
Meeting Date

674
Bill Number (if applicable)

Topic GREYHOUND STEROID BILL

Amendment Barcode (if applicable)

Name Don Goldstein
DON GOLDSTEIN

Job Title _____

Address 12321 BRANFIELD DR

Phone 813-361-7146

Street

RIVERVIEW

City

FL

State

33579

Zip

Email DGOLDSTEIN@TAMPABAY.ORG
RR.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GREYHOUND RESCUE & ADOPTIONS OF TAMPA BAY (GREAT)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

APPEARANCE RECORD

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

11/17/18
Meeting Date

674
Bill Number (if applicable)

Topic Greyhound Bus Control

Amendment Barcode (if applicable)

Name Rossini MAURY

Job Title _____

Address PO Box 10245
Street

Phone 222 1568

TALL FL 32302
City State Zip

Email minggroup@aol

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA Greyhound Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

APPEARANCE RECORD

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

1/17/18

Meeting Date

674

~~840~~

Bill Number (if applicable)

Topic ~~Caring for~~ Steroid Greyhound

Amendment Barcode (if applicable)

Name Kelly R. Faircloth

Job Title _____

Address 2707 W. Wilder Ave

Phone 813-601-1209

Street

Tampan FL 33614

City

State

Zip

Email kfaircloth2002@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

APPEARANCE RECORD

SB 674

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

11/17/18

Meeting Date

~~SB 674~~

Bill Number (if applicable)

Topic Anabolic steroids in greyhounds

Amendment Barcode (if applicable)

Name Carey Theil

Job Title Executive Director

Address 7 Central St. Suite 210

Phone 617-501-6276

Street

Arlington MA 02476

Email Carey@grey2kusa.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GREY2K USA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/17/18

Meeting Date

674

Bill Number (if applicable)

Topic Anabolic Steroids in Greyhounds

Amendment Barcode (if applicable)

Name Kate MacFall

Job Title state director

Address 1624 Metropolitan Ave
Street

Phone 850 508-1001

Tallahassee FL 32308
City State Zip

Email kmacfall@hsus.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Humane Society of the United States

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations Subcommittee on Pre-K - 12
Education, *Vice Chair*
Commerce and Tourism
Communications, Energy, and Public Utilities
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DANA YOUNG

18th District

November 8, 2017

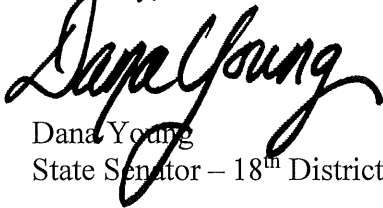
Senator Travis Hutson, Chair
Regulated Industries Committee
330 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399-1100

Dear Chair Hutson,

My Senate Bill 674 relating to Steroid Use in Racing Greyhounds has been referred to your committee for a hearing. I respectfully request that this bill be placed on your next available agenda.

Should you have any questions, please do not hesitate to reach out to me.

Sincerely,



Dana Young
State Senator – 18th District

cc: Ross McSwain, Staff Director – Regulated Industries Committee

REPLY TO:

- 1211 N. Westshore Blvd, Suite 409, Tampa, Florida 33607 (813) 281-5507
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Regulated Industries Committee

Judge:

Started: 1/17/2018 1:33:30 PM

Ends: 1/17/2018 2:05:38 PM

Length: 00:32:09

1:33:31 PM Meeting called to order
1:33:35 PM Meeting called to order
1:33:52 PM Meeting called to order
1:34:07 PM Pledge of allegiance
1:34:10 PM Roll call
1:34:15 PM Quorum present
1:34:37 PM Chair turned to Senator Benaquisto
1:34:51 PM Tab 1 SB 840
1:35:01 PM Senator Hutson explains bill
1:36:36 PM Questions?
1:36:54 PM Amendment 831572 presented by Senator Hutson
1:37:11 PM Senator Hutson withdraws amendment
1:37:23 PM Amendment 439272 presented by Senator Steube
1:37:40 PM Senator Steube withdraws amendment
1:37:55 PM Back on the bill
1:38:03 PM Jennifer Hobgood, ASPCA, waives in support
1:38:12 PM Don Goldstein, Greyhound Rescue and Adoptions of Tampa Bay, waives in support
1:38:35 PM Lonny Powell, Florida Thoroughbred and Owners Association, speaking in opposition
1:41:24 PM Kelly Faircloth waives in support
1:41:58 PM Jeff Kotkamp, Florida Greyhound Association, speaking in opposition
1:44:14 PM Amber Kelly, Florida Family Action, waives in opposition
1:44:21 PM Mike Dunbar, Stonach Group/Gulfstream Park, waives in opposition
1:44:29 PM Carey Thiel, Grey2K USA, waives in support
1:44:36 PM Kate Macfall, State Director of Humane Society, waives in support
1:45:03 PM Lauren Jackson, Florida Standard Bred Breeders Association, speaking in opposition
1:45:26 PM Debate?
1:45:34 PM Senator Thurston speaking
1:45:54 PM Senator Gibson speaking
1:46:31 PM Senator Young speaking
1:47:55 PM Senator Hutson closing
1:51:00 PM Roll call on SB 840 by Lynn Koon
1:51:14 PM Bill reported favorably
1:51:20 PM Senator Hutson taking chair
1:51:22 PM Tab 2 SB 674 by Senator Young
1:51:31 PM Senator Young explains bill
1:52:33 PM Questions?
1:52:45 PM Question from Senator Brandes
1:52:51 PM Response from Senator Young
1:52:55 PM Question from Senator Brandes
1:53:02 PM Response from Senator Young
1:53:07 PM Public testimony
1:53:28 PM Jennifer Hobgood, ASPCA, waives in support
1:53:40 PM Don Goldstein, Greyhound Rescue and Adoptions of Tampa Bay, waives in support
1:54:05 PM Ramon Mavry, Florida Greyhound Association, speaking in opposition
1:58:17 PM Question from Senator Hutson
1:58:37 PM Response from Ramon Mavry
1:59:18 PM Question from Senator Hutson
1:59:23 PM Response from Ramon Mavry
2:00:05 PM Question of Senator Hutson
2:00:09 PM Response from Ramon Mavry
2:00:35 PM Questions?
2:00:46 PM Kelly Faircloth waives in support

2:00:59 PM Carey Theil, Grey2K USA, waives in support
2:01:10 PM Kate Macfall, Humane Society of the United States, waives in support
2:01:13 PM Debate?
2:01:17 PM Senator Young closing
2:03:03 PM Roll call on SB 674 by Lynn Koon
2:03:23 PM SB 674 reported favorably
2:03:45 PM Request to change Senator Gibson's yay to a nay
2:03:51 PM No objection- reflected in record
2:04:04 PM Senator Hutson moves to adjourn without objection