

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 21, 1998 Revised: 04/23/98 \_\_\_\_\_

Subject: Thoroughbred Horse Racing

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Rodriguez</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	<u>Keating</u>	<u>Smith</u>	<u>WM</u>	<u>Fav/1 amendment</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill reenacts existing provisions relating to taxes on live and ITW/simulcast handle of thoroughbred permitholders and relating to minimum purses for thoroughbreds. It also requires that a certain thoroughbred permitholder make broadcast signals available to another thoroughbred permitholder in a market area and provides that the tax on wagers at the guest facility for such events will be 2% (instead of 3.3% on intertrack wagers and 2.4% on ITW/simulcast wagers).

This bill substantially revives, reenacts or amends the following sections of the Florida Statutes: 550.09515, 550.2625, and 550.615

**II. Present Situation:**

Pursuant to chapter 91-197, Laws of Florida, portions of chapters 550 and 551, Florida Statutes, were set to repeal on July 1, 1992. The Legislature intended to set up an orderly and timely review of pari-mutuel laws, eliminate duplication, and provide greater uniformity. Instead, what occurred, was the repeal of virtually all pari-mutuel laws.

The division adopted emergency rules to provide temporary regulation of the industry until December of 1992, when ch. 92-348, L.O.F., was enacted. Chapter 92-348, L.O.F., provides much of today's regulatory scheme. The law reestablished the division's enforcement authority and condensed, clarified and modernized Florida's pari-mutuel wagering laws. Section 550.0951, F.S., established a uniform tax rate for all permitholders conducting thoroughbred horse racing, harness horse racing and quarter horse racing. The established tax rate for those industries was 3.3%.

During the regular session in 1993, the Legislature reduced tax rates for thoroughbred permit-holders conducting thoroughbred meets within specified periods (ch. 93-123, L.O.F., *see* Table 1 for a comparison of the various rates). The 1993 act provided that the tax on live handle for permit-holders conducting performances in more than one period is the sum of the tax rates for all such periods. It also provided that the operative section, s. 550.09515, F.S., would be repealed on July 1, 1998, unless reenacted by the Legislature prior to that date.

**Table 1: Thoroughbred Industry Tax on Live Handle (1992-98)**

CLASSIFICATION	1992-93 <sup>1</sup>	1993-96 <sup>2</sup>	1996-98 <sup>3</sup>
January 3 to March 16 Racing Period (Gulfstream)	3.3%	3.0%	2.25%
March 17 to May 22 Racing Period (Hialeah)	3.3%	1.15%	0.7%
May 23 to January 2 Racing Period (Calder/Tropical)	3.3%	2.4%	1.5%
Permitholders whose handle in FY 1991-92 was less than \$34 million (Tampa Bay Downs, not subject to racing periods provision).	3.3%	0.5%	0.5%

<sup>1</sup> There were no periods for differential tax purposes during FY 1992-93.

<sup>2</sup> The tax on live handle for permit-holders conducting performances in more than one period is the sum of the tax rates for all such periods (e.g., 3.0% + 1.15% = 4.15%).

<sup>3</sup> The tax on live handle for permit-holders conducting performances in more than one period is the twice sum of the tax rates for all such periods (e.g., (2.25% + .7%) x 2 = 5.90%).

The 1996 Legislature enacted ch. 96-364, L.O.F. (hereinafter referred to as the “1996 act”). The 1996 act provided increased opportunities for full-card simulcasting and intertrack wagering. It also provided tax credits and exemptions, established minimum purse requirements to benefit greyhound and horse breeders, and authorized card rooms at pari-mutuel facilities. The 1996 act enabled like-kind facilities in the South Florida market area to trade signals without unanimous consent from all permit-holders in the area.

The 1996 act reduced the live, intertrack, and ITW/simulcast tax rates for thoroughbred permit-holders and provided additional purses for thoroughbred breeders. It also removed the 20% limit on simulcasting of out-of-state races and clarified that the daily license fee applies to simulcast races, with a maximum of \$500 per performance.

Section 26 of the 1996 act provided, effective July 1, 1998, that the tax rates for thoroughbred permit-holders, jai alai permit-holders, and all permit-holders conducting intertrack wagering would revert to those in place before the act became law (i.e., June 1, 1996). Purses for thoroughbreds also would be decreased.

Section 550.09515, F.S., pertaining to thoroughbred horse racetracks, is subject to repeal or partial repeal if not reenacted by July 1, 1998. Subsection (2) was amended in 1996 to reduce tax rates on live handle to current levels. It is ambiguous whether this amendment negated the repeal provision in ch. 93-123, L.O.F. Therefore, if no action is taken before July 1, 1998, it is unclear whether the tax structure for thoroughbreds will revert to pre-1996 levels (with racing periods) or to those provided in section 550.0951 (3)(a), F.S. (without racing periods). Table 1 outlines tax rates under the three different statutory provisions for thoroughbreds that have been in place since 1992.

The 1996 act also amended s. 550.09515(2), F.S., to increase the penalty for racing in more than one time period. The 1996 act provided that the tax on live handle for permitholders conducting performances in more than one period is *double* the sum of the tax rates for all such periods. By way of comparison, the tax rate in effect between 1993 and 1996 for permitholders that raced in more than one period was *simply* the sum of the tax rates for all such periods. These "penalty" tax rates apply to all performances during the fiscal year; it is not limited to the dates for which the permitholder raced and was overlapping with another permitholder. This provision regarding the penalties is subject to repeal if not reenacted by July 1, 1998.

Section 550.09515, F.S., provides that a permit shall become void and escheat to the state, if a permitholder fails to operate or pay tax for two consecutive state fiscal years and that a qualified applicant may pursue a permit that has escheated to the state, provided that the harness horse race facility is located in the same county as the previous permit. Legislative intent is provided in this section along with a provision that states that this section shall become null and void if it is found to be unconstitutional by a court of competent jurisdiction. These provisions are subject to repeal if not reenacted by July 1, 1998.

The 1996 amendments to subsection (2) of section 550.2625, F.S., regarding thoroughbred purses, also will be repealed if not reenacted by July 1, 1998. The additional purse requirements currently in effect provide for purse payments of: 7.875% for the period between January 3 and March 16; 7.725% for the period between March 17 and May 22; 8.1% for the period between May 23 and January 3; and 7.5% for any permitholder whose total handle on live performances was less than \$34 million in state fiscal year 1991-1992. A reversion to pre-1996 rates would lower the required purses to 7.5% for all thoroughbred permitholders

The 1996 act also provides that an additional 8.5% of the purse account generated through intertrack wagering and interstate simulcasting be used for the Florida Owners' Awards. An exemption is created for those permitholders with average daily purse distributions of over \$225,000. This provision along with the exemption will also be repealed unless reenacted by July 1, 1998.

The 1996 act also amended s. 550.615, F.S., relating to intertrack wagering, to provide that a thoroughbred permitholder in the south Florida market area that conducts performances between the period beginning May 23 and ending January 2 (typically, Calder/Tropical) must make available any live pari-mutuel event conducted and any simulcast event received to any

thoroughbred permitholder that conducted performances between the period beginning March 17 and ending May 22 (typically, Hialeah). The 1996 act also provided that the tax on handle at the guest facility on such events in 2% (instead of 3.3% for intertrack wagers and 2.4% for ITW/simulcast wagers). These provisions are not subject to repeal and has a positive fiscal impact of \$452,554.

### III. Effect of Proposed Changes:

**Section 1** revives and readopts section 550.09515, F.S., relating to thoroughbred tax rates on live and ITW/simulcast handle, which otherwise will be repealed July 1, 1998. Current tax rates on live and ITW/simulcast handle for thoroughbred horse races are:

- 2.25% for the period between January 3 and March 16,
- 0.7% for the period between March 17 and May 22,
- 1.5% for the period between May 23 and January 3, and
- 0.5% tax rate for any permitholder whose total handle on live performances was less than \$34 million in state fiscal year 1991-1992 (Tampa Bay Downs).

**Section 1** also preserves the existing penalties for racing in more than one period (i.e., the tax on live handle for permitholders conducting performances in more than one period is twice the sum of the tax rates for all such periods).

**Section 2** revives and reenacts s. 550.2625(2), F.S., relating to minimum purse requirements, which otherwise will be repealed July 1, 1998. Current minimum purse requirements are:

- 7.875% for the period between January 3 and March 16;
- 7.725% for the period between March 17 and May 22;
- 8.1% for the period between May 23 and January 3; and
- 7.5% for any permitholder whose total handle on live performances was less than \$34 million in state fiscal year 1991-1992.

**Section 3** amends s. 550.615(11), F.S., to provide that any thoroughbred permitholder that conducts performances during the period beginning January 3 and ending March 16 (typically, Gulfstream) must make available any live pari-mutuel event conducted and any simulcast event received to any thoroughbred permitholder that conducts performances between the period beginning March 17 and ending May 22 (typically, Hialeah). The tax on wagers at the guest facility for such events would be 2 percent (instead of 3.3% on intertrack wagers and 2.4% on ITW/simulcast wagers).

**Section 4** amends the repealer provision in s. 26, of ch. 96-364.

**Section 5** provides that except for sections 1 and 2, the effective date of this act is 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. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

The bill reenacts certain provisions that will maintain tax rates at a lower rate. Due to an error, the current base revenue for the General Revenue Fund assumed that the tax rate reduction provisions of chapter 96-364, L.O.F., would continue. Therefore, while the fiscal estimate below reflects the actual revenue impact of this bill, the reduction should not effect moneys available for appropriation.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
	\$	\$	\$	\$	\$	\$	\$	\$
Repeal of the Repeal of Throughbred Tax Rates	(4.2)	(4.2)	0.0	0.0	0.0	0.0	(4.2)	(4.2)
Gulfstream/Hialeah	<u>0.2</u>	<u>0.2</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.2</u>	<u>0.2</u>
Total	\$ (4.0)	\$ (4.0)	0.0	0.0	0.0	0.0	\$ (4.0)	\$ (4.0)

B. Private Sector Impact:

The bill defeats the scheduled return to higher tax rates and may help sustain the economic viability of certain thoroughbred racing facilities.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Ways and Means:

Creates s. 550.6308, F.S., to allow a currently licensed facility that conducts public horse sales and meets certain qualifications to apply for a license to conduct intertrack wagering on thoroughbred horse racing during specified periods. (WITH TITLE AMENDMENT)

Fiscal Impact: Currently, Ocala Breeder's Association is licensed to operate under this type of licensure but a recent court case on appeal may cause them to stop taking intertrack wagers and would result in a loss of \$400,000 in state revenues.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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