

STORAGE NAME: s0770s2z.rs
DATE: May 10, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 00-354, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
REGULATED SERVICES
FINAL ANALYSIS**

BILL #: CS/CS/SB 770 & SB 286, 1st Engrossed
RELATING TO: Regulated Industries
SPONSOR(S): Committees on Regulated Industries, Fiscal Resource and Senators Latvala, Geller and others
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1)
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

As passed, this bill addresses two subject areas: first, a reduction in the alcoholic beverage surcharge tax, and, second, regulatory enactments and significant tax relief for the pari-mutuel wagering industry.

This bill reduces the surcharge on alcoholic beverages by one-half. This bill also exempts qualifying nonprofit and veterans organizations [s. 501(c)(3)-(8) and (19) of the Internal Revenue Code] from paying the alcoholic beverage surcharge.

A percentage of surcharge receipts is deposited into the Children and Adolescents Substance Abuse Trust Fund [CASA TF]. To prevent the CASA TF from being adversely affected by the surcharge reduction, the rate of contribution to that fund is increased from 13.6 percent to 27.2 percent of surcharge collections.

This bill makes a variety of changes to the pari-mutuel code, including reduced live, simulcast and intertrack tax rates for permitholders, increased purses to dog owners and kennel operators and increased breeder and stallion awards. This legislation provides approximately \$22.5 million in tax reductions, credits and exemptions for the pari-mutuel industry, as well as notable regulatory enactments.

This bill also funds the annual county allocations from pari-mutuel revenue collections [\$29.9M] from General Revenue rather than from the Pari-mutuel Wagering Trust Fund.

The combined provisions in this bill will have a negative fiscal impact on the state revenue collections of approximately \$62.5 million in FY 2000-01.

Except as otherwise provided, the bill takes effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

ALCOHOLIC BEVERAGE SURCHARGE

An alcoholic beverage surcharge is imposed on all alcoholic beverages sold by the drink for consumption on a retailer's licensed premises [s. 561.501, F.S.]. The surcharge is 6.67 cents on each ounce of liquor and on each 4 ounces of wine, 4 cents on each 12 ounces of cider and 2.67 cents on each 12 ounces of beer. The surcharge was previously reduced by one-third to the existing rates on September 1, 1999.

Retailers are required to remit the alcoholic beverage surcharge monthly and may pay the surcharge based on their actual on-premises sales during the previous month or up-front, based on the amount of alcoholic beverage purchases they made from licensed wholesalers. In 1999, the Division of Alcoholic Beverages and Tobacco [DABT] reported that over 85% of licensed retailers utilize the purchase method to calculate the surcharge. The sales method of calculations and remittance involves a more cumbersome record keeping procedure which often results in retailer miscalculations.

Retailers are allowed to retain 1% of the monthly surcharge owed to the state to cover their cost of maintaining appropriate records and remitting the tax in a timely manner. Current staffing levels at the DABT allow the nearly 21,000 licensees to be audited once every three to five years.

Section 561.121, Florida Statutes, requires 13.6% of surcharge collections be transferred to the Children and Adolescents Substance Abuse Trust Fund [CASA TF] to fund programs directed at reducing and eliminating substance abuse problems among children and adolescents. In order to hold harmless the CASA TF, the contribution rate was increased to this rate when the surcharge rates were reduced in 1999. The surcharge is expected to generate \$10,295,250 for the CASA TF for FY 1999-2000.

At its present rate the surcharge is expected to generate approximately \$83,475,000 for FY 1999-2000.

PARI-MUTUEL WAGERING

Chapter 550, Florida Statutes, contains Florida's laws governing the regulation and taxation of pari-mutuel wagering activities in the state. The Division of Pari-mutuel Wagering [division] of the Department of Business and Professional Regulation, is the state agency with general regulatory authority over these activities. The pari-mutuel industry has historically been a highly regulated industry and the state has traditionally enforced a wide range of regulatory controls over the daily operations of pari-mutuel permitholders. This complicated set of laws and regulations has been primarily designed to protect the integrity and health of the pari-mutuel industry and, subsequently, the state revenues generated by wagering activities.

Over the last decade there has been a steady decline in attendance, wagering handle, and tax collections. Total state revenue collections from all pari-mutuel operations decreased from \$118,466,567 in FY 1988-89 to \$62,934,837 for FY 1998-99. Likewise, over the past decade, numerous amendments to the pari-mutuel statutes have been adopted in efforts to mitigate the impact of this decline.

Total state revenue collections from pari-mutuel performances alone were \$58.8 million for the past fiscal year [this figure excludes revenue receipts from occupational licenses, escheated tickets, cardroom revenues, etc.]. Section 550.135, F.S., requires \$29,915,500 of annual pari-mutuel revenue collections to be divided equally between and distributed to all counties in the state. Once this payment to counties and the cost of operation of the Division, which is approximately \$15 million [operating and non-operating expenses], is deducted from those receipts, the unencumbered balance from pari-mutuel revenue collections in the General Revenue Fund is approximately \$14 million.

The April 2000 General Revenue Consensus Estimating Conference [REC] estimates total state revenue collections from pari-mutuel performances, again excluding revenue receipts from occupational licenses, escheated tickets, cardroom revenues, etc., to decrease to approximately \$55.3 million for FY 1999-2000. The REC anticipates those revenue collections to increase to approximately \$55 million for FY 2000-2001, due primarily to an anticipated increase in ITW handle.

C. EFFECT OF PROPOSED CHANGES:

As passed, this bill addresses two subject areas: first, a reduction in the alcoholic beverage surcharge tax, and, second, regulatory enactments and significant tax relief for the pari-mutuel wagering industry. [This bill contains all, or a portion of, or is substantially similar to several House and Senate bills which ultimately died upon adjournment: CS/HB's 695 & 1165, 1st Eng., HB 705, CS/CS/HB 725, 1st Engrossed, HB 945, CS/HB 1179, HB 1435, CS/HB 1463, HB 2117, SB 1080, CS/CS/SB 2324, SB 1600, SB 1630, SB 1936, SB 956, SB 2138, SB 1532, SB 2022, SB 1954, and SB 216.]

ALCOHOLIC BEVERAGE SURCHARGE

This bill reduces the surcharge presently assessed on all alcoholic beverages sold by the drink for consumption on a retailer's licensed premises by one-half. The surcharge is reduced from 6.67 cents to 3.34 cents on each ounce of liquor and on each four ounces of wine, from four cents to two cents on each 12 ounces of cider, and from 2.67 cents to 1.34 cents on each 12 ounces of beer. This bill also completely exempts qualifying nonprofit and veterans organizations [s. 501(c)(3)-(8) and (19) of the Internal Revenue Code] from

STORAGE NAME: s0770s2z.rs

DATE: May 10, 2000

PAGE 4

paying the alcoholic beverage surcharge. [Identical to Section 1, CS/HB 695 & 1165, 1st Eng.]

To prevent the Children and Adolescents Substance Abuse Trust Fund [CASA TF] from being adversely affected by the surcharge reduction, the rate of contribution to that fund is increased from 13.6 percent to 27.2 percent of surcharge collections. [Identical to Section 2, CS/HB 695 & 1165, 1st Eng.]

This portion of the bill will have a negative fiscal impact on tax revenues of \$33.3 million in FY 2000-01 and a recurring loss of \$40.1 million in FY 2001-02.

PARI-MUTUEL WAGERING

This portion of the bill provides approximately \$20 million in tax reductions, credits and exemptions for the pari-mutuel industry, as well as notable regulatory enactments. Since the bill encompasses a broad range of subjects within each segment of the industry, this summary is divided into several relevant categories for easier reference:

- Tax Reductions
- Credits and Exemptions
- Purses and Breeders' Awards
- Licensing
- Other Regulatory Enactments, and
- Pari-Mutuel Wagering Trust Fund

TAX REDUCTIONS:

Greyhounds: [Similar to CS/CS/HB 725, 1st Eng.]

- Live and simulcast rate reduced from 7.6% to 5.5%
- Intertrack wagering [hereafter, ITW] rate reduced from 7.6% to 5.5%
- ITW exchanged in the Jacksonville, Tampa Bay, and South Florida market areas is reduced from 6% to 3.9%
- ITW of interstate simulcast wagering [hereafter, ISW] reduced from 7.6% to 5.5%
- Charity performances remain at 7.6%

Thoroughbreds: [Similar to HB 945]

- Live and simulcast thoroughbred rates reduced as follows:
 - Calder/Tropical reduced from 1.25% to 0.5%
 - Gulfstream Park reduced from 2.0% to 0.5%
 - Hialeah Park remains at 0.2%
 - Tampa Bay Downs remains at 0.5%
- ITW reduced from 3.3% to 2%
- ITW between thoroughbreds reduced from 3.3% to 0.5% or if the guest track is located outside the market area of the host track and within the market area of a live thoroughbred permitholder reduced from 3.3% to 0.5%
- ITW of ISW stays at 2.4%
- The bill also amends legislation passed in 1998 Session which would have raised tax rates in 2001 to their prior higher levels and implements, effective July 1, 2001, a uniform live tax rate of 0.5% for all thoroughbred tracks.

Harness: [Similar to CS/HB 1463]

STORAGE NAME: s0770s2z.rs

DATE: May 10, 2000

PAGE 5

- Live and simulcast harness tax rate reduced from 1% to 0.5%
- ITW remains at 3.3%
- ITW of ISW is reduced from 2.4% to 1.5%

Jai Alai: [Identical to Section 1, CS/HB 1463]

- Live rates reduced from 4.25% or 3.85% to no higher than 2%; simulcasts will be taxed at the same rate as live events

Quarter Horses [no races conducted during FY 1998-99]

- Live rate reduced from 3.3% to 1.0%
- Simulcast rate reduced from 3.3% to 1.0%
- ITW rate reduced from 3.3% to 2%

Surtax on Winning Tickets Surcharge

Section 550.6335, F.S., allows permitholders to assess a surcharge on winning tickets under specified circumstances. Section 550.0951(3)(c)3., F.S., requires any guest track that imposes a surcharge on winning tickets to pay an additional tax equal to five percent of the surcharge. This bill eliminates the additional five percent tax assessed on the surcharge on winning tickets.

CREDITS AND EXEMPTIONS:

Greyhound [CS/CS/HB 725, 1st Eng.]

This bill amends s. 550.0951, F.S., to allow the daily license fee tax credit and the tax exemption provided in s. 550.09514(1), F.S., [\$360,000 or \$500,000] to apply to any tax and against the daily license fees imposed in Chapter 550, instead of only against live handle in excess of \$100,000. The bill will allow unused portions of the tax savings exemption, not just unused portions of the daily license fee tax credit which is currently the case, to be transferred to a greyhound permitholder who acts as a host track for ITW. The host track will also be allowed to apply the exemption/credit against any tax imposed by Chapter 550, F.S., and daily license fees. The host track receiving the transfer is required to reimburse the transferring permitholder the exact monetary value of the exemption/credit.

This bill amends s. 550.1647, F.S., and gives greyhound tracks a credit for the amount of escheats [unclaimed prizes/outs] paid to the state and clarifies that the credit is equivalent to the amount remitted to the state in the prior fiscal year. Further, the bill requires that an amount equal to at least 10% of the credit to be paid by the track from any source, including the proceeds from charitable performances, to a bonafide greyhound adoption organization.

Jai Alai [Similar to CS/HB 1179]

For FY 2000-2001, the November 1999 Revenue Estimating Conference estimated that escheats [unclaimed prizes/outs] from jai alai performances will generate \$430,000. The bill creates a jai alai tax credit equal to one-quarter of escheats paid to the state and requires an amount equal to the credit to be paid to National Association of Jai Alai Frontons to be used for promotional purposes, including professional tournaments and amateur jai alai youth programs. The bill specifies that the youth programs shall focus on

STORAGE NAME: s0770s2z.rs

DATE: May 10, 2000

PAGE 6

benefiting children in after-school and anti-drug programs with a special emphasis on inner-city youth.

Thoroughbreds [Similar to HB 1435]

A new subsection (7) is added to s. 550.09515, F.S., and provides a tax credit to thoroughbred permitholders for contributions to the Jockeys Guild or its health and welfare fund in an amount equal to the permitholder's contribution but not greater than 1% of its prior year taxes.

Section 7 of the bill provides that the double-sum tax liability which accrued pursuant to s. 550.09515(2)(a)2., F.S., due to both Hialeah and Gulfstream operating at same facility shall be forgiven and precludes any action by the department to collect the penalty.

Breeders' Cup [Identical to Section 6, HB 945]

This bill amends s. 550.26352, F.S., which authorizes the Breeders' Cup Meet. The present statutory requirements for the conduct of the Breeders' Cup remain intact with the following exceptions:

- The present tax credit of \$500,000 received as compensation for loss of racing days for a permitholder which is required to cease operation during the Breeders' Cup is increased to \$950,000;
- The present tax credit of \$800,000 received by the permitholder conducting the Breeders' Cup Meet for capital improvements and other expenses necessary to operate the meet is increased to \$950,000;
- The provision prohibiting the permitholder conducting the Breeders' Cup Meet from transmitting broadcasts of the Meet to any facility located within 25 miles without the consent of all operating permitholders in that market area is deleted; and
- The bill grants authority for the Division of Pari-Mutuel Wagering to waive rules during conduct of the Meet.

PURSES AND BREEDERS AWARDS:

Greyhounds [Identical to Section 8, CS/CS/HB 725, 1st Eng.]

This bill creates a new paragraph (e) in s. 550.09514(2), F.S., to provide additional purse payments. The bill requires that in addition to other statutorily mandated payments, greyhound permitholders pay as purses an amount equal to one-third of the amount of the tax break they receive on live and simulcast handle as a result of the reduction in tax rates.

When the host and guest tracks are greyhound permitholders outside the same market area, an amount equal to the tax reduction applicable to the guest track handle as a result of the reduced tax rate shall be distributed to the guest track, one-third of which amount will be paid as purses at the guest track. The purse payments related to the tax rate reductions in the bill are to be paid at both live and dark guest tracks outside the market area.

STORAGE NAME: s0770s2z.rs

DATE: May 10, 2000

PAGE 7

Currently, purse payments are not required to be made at dark guest tracks when they accept ITW signals from outside the market area and are not conducting a race meet.

If, however, the guest track is a greyhound track within the market area of the host track or if the guest track is not a greyhound track, an amount equal to the tax reduction applicable to the guest track handle shall be retained by the host track, one-third of which shall be paid as purses at the host track.

These purses must be disbursed the week received if the permitholder conducts at least one live performance that week; otherwise, if the track is dark, they shall be disbursed weekly during the permitholder's next race meet according to a specified formula. The Division of Pari-Mutuel Wagering is required to conduct audits as necessary to ensure compliance with these provisions.

Formula: divide the purse amount by the number of performances approved for the permitholder pursuant to its annual license and multiply that amount by the number of performances conducted each week.

Thoroughbreds and Harness

- Raises minimum purse requirement for thoroughbreds from 7.5% of handle to 7.75%.
- Increases stallion and breeders awards from 3.3% to 3.475% of gross revenue derived for broadcasting live thoroughbred race to another state.
- Increases from 6.125% to 7% of handle the amount a thoroughbred or quarter horse track must pay as purses on ITW.
- Raises the minimum purse requirement for live harness handle from 8% to 8.25% of which 7.75% is paid in purses and 0.5% is paid for benefits to harness occupational licensees. [Identical to Section 3, CS/HB 1463]
- Increases funding for breeder and stallion awards from .75% handle to .955%.
- No less than 17% nor more than 40% of the amount dedicated to breeders and stallion awards to be used for thoroughbred stake races in accordance with a plan agreed upon among permitholder, Florida Thoroughbred Breeders' Association [hereafter, FTBA] and Florida Horsemen's Benevolent and Protective Association, Inc., [hereafter, FHBPA], or in the case of Tampa Bay, the majority horsemen's association. [Section 2, HB 1435]
- Requires Ocala Breeders Sales [hereafter, OBS] to pay 2.5% of greyhound and jai alai handle to other operating thoroughbred tracks in the state for purses.

LICENSING

Section 550.105, F.S., requires each person connected with a racetrack or fronton to purchase an annual occupational license from the division. Occupational licenses are issued in seven categories according to their access needs with annual fees ranging from \$10 to \$50. According to the divisions' annual report, pari-mutuel wagering occupational licenses at all pari-mutuel facilities in the state generated \$706,871 during FY 1998-99. Of the 22,741 licenses issued during that fiscal year, 16,357 were restricted licenses and of that number, 6,393 were fingerprinted.

Unrestricted licenses are issued to persons with access to the backside, racing animals, jai alai players' room, jockeys' room, drivers' room, totalisator room, the mutuels or money room and to persons who, by virtue of the position they hold, might be granted access to these areas. Persons issued an unrestricted license require the most state scrutiny, including the submission of fingerprints for a FBI criminal records check. Applicants for an unrestricted occupational license in Florida are required to be fingerprinted every five years. There is a \$39 fee to cover the cost of a fingerprint investigation. Many such licensees also work at pari-mutuel facilities in other states and must apply for a license in each of the states in which they are employed.

Restricted licenses are issued to persons which, due to their lack of access to those areas, require less state scrutiny and do not require routine criminal records check. The Division is, however, authorized to require the persons applying for restricted licenses to submit fingerprints if it is deemed necessary. This bill restructures categories for occupational licensing and removes the necessity to issue restricted licenses for general employees such as food handlers who do not have access to racing animals, players, the money room, etc.

Subsection (4) of s. 550.105, F.S., authorizes the division to enter into reciprocal agreements with other states. The division may deny a license to or revoke, suspend or place conditions or restrictions upon any person who has been refused a license by another state or who has been disciplined by or failed to pay a fine in another state when there is a reciprocity agreement between the states.

This bill continues with this theme and creates the "Interstate Compact on Licensure of Participants in Live Horseracing with Pari-Mutuel Wagering" and establishes the rights and responsibilities of the compact committee and participating states. The compact committee created by this legislation is considered an interstate governmental entity. This bill is model legislation from the Association of Racing Commissioners International, Inc. which appears to be intended to be broad enough to cover all aspects of compact operations and yet flexible enough to accommodate the regulations of individual states. The bill authorizes the Department of Business and Professional Regulation [DBPR], to participate in the compact.

Any persons applying for an occupational license at a pari-mutuel facility will also be eligible to apply for a compact license. It appears that receipt of a compact license will enable such persons to obtain a comparable license in other participating states, upon payment of the applicable state license fee in that state. In Florida, applicants for unrestricted occupational licenses at pari-mutuel facilities are required to be fingerprinted once every five years. Other states may have more or less restrictive fingerprinting regulations. Issuance of a compact license may eliminate the necessity for an individual to pay an additional charge for fingerprinting in those states which have a more restrictive requirement than Florida.

To accomplish the specified purposes, the bill grants the compact committee authority to determine which categories of participants should be licensed and authority to establish the requirements and term of license for each category. In so doing, the compact committee is required to adopt standards which are comparable to the most restrictive licensure requirements among the compact states for each category.

The compact does not come into force until enacted by four states. As of the date of publication of this analysis, legislation establishing this compact has passed the Legislature in two states, Virginia and West Virginia, and is awaiting the Governor's approval.

Enabling legislation has been introduced in California, Nebraska and Delaware and has passed the House and is pending review by the Senate in Louisiana. Any state which has authorized pari-mutuel wagering on horseracing is eligible to become a party to the compact.

The bill specifies that any party state may withdraw from the compact by enacting a statute which repeals the compact. The withdrawal will not become effective, however, until the Governor gives notice, in writing, to the Governor of the other participating states.

OTHER REGULATORY ENACTMENTS:

All Segments of Pari-Mutuel Industry

The bill amends s. 550.0951(4)2., F.S., to change the schedule for remitting taxes and fees imposed at pari-mutuel events from twice weekly to once per week. [Identical to Section 1, HB 945]

The bill amends s. 550.01215, F.S., to repeal a provision which may be interpreted to limit permitholders to using their facilities for specifically enumerated functions and subject to local ordinance.

The bill amends s. 550.155, F.S., to add 'counties' to current law requiring municipalities to approve capital improvements that are contiguous to or within pari-mutuel facilities, unless the improvement creates a hazard to the health and safety of residents.

The bill amends s. 550.24055(2), F.S., to amend provisions providing that licensees impliedly consent to chemical breath tests for alcohol and urine tests for drugs by reducing the threshold from .10 BAL to .08 BAL for a presumption of intoxication.

Greyhound

The bill amends s. 550.615, F.S., to authorize any greyhound track in three contiguous counties where there are only three permitholders, all of which are greyhound permitholders [the Jacksonville market area], which leases another greyhound track in the same market area for purposes of conducting live racing to also receive ITW at the dark, pre-lease facility.

Horses

The bill amends s. 550.09515, F.S., and eliminates the penalty for using a thoroughbred facility to operate in more than one period but leaves the penalty for a thoroughbred permitholder operating in more than one period.

The bill amends s. 550.3551(6)(a), F.S., to require the written approval of both the Florida Thoroughbred Breeders' Association and the Florida Horsemen's Benevolent and Protective Association, Inc., unless the department determines another group represents the majority of horsemen, before a thoroughbred permitholder may conduct fewer than eight live races each race day. [Similar to HB 1435]

The bill makes the liability provisions of Chapter 773 relating to equine activities applicable to the horseracing industry as defined in Chapter 550 and amends the definition of "participant" to include the horse itself.

The bill amends s. 550.6308, F.S., and removes restrictions on times and types of pari-mutuel events on which Ocala Breeders' Sale can take ITW provided all operating permitholders in the county consent.

Jai Alai

Section 550.0555(2), F.S., allows a greyhound permitholder to relocate, without the necessity of an additional county referendum, within a 30-mile radius of its present location if there is only one greyhound permitholder in the county. This bill amends this statute to allow a jai alai permit, like the dogracing permit, to relocate consistent with their comprehensive plan, without the necessity of an additional county referendum, within a 30-mile radius of its present location. The permit may not relocate across a county boundary and the relocation must be approved under the zoning regulations of the county or municipality of the new location. The relocation request must undergo a hearing pursuant to Chapter 120, F.S., so that the relocation ensures the revenue-producing capability of the permittee and does not adversely impact any other permitholder within 50 miles. [Identical to HB 705]

Additionally, the bill makes permanent the authority, which otherwise would have been repealed July 1, 2000, for jai alai permitholders to conduct two charity performances. [Identical to SB 216]

Section 550.475, F.S., grants authority for holders of valid greyhound, thoroughbred and standardbred racing permits to lease any or all of their facility to a same-class permitholder which is located within a 35 mile radius for purposes of conducting a race meet. This bill amends this section to allow a fronton to lease its facility to another jai alai permitholder that is located within 35 miles to conduct jai alai games. [Identical to Section 2, CS/HB 1179]

PARI-MUTUEL WAGERING TRUST FUND:

At present, some pari-mutuel wagering revenue collections are deposited into the General Revenue Fund, some are deposited into the Pari-mutuel Wagering Trust Fund and some are split between the two. Section 550.135, F.S., requires \$29,915,000 from pari-mutuel revenue collections to be divided equally between, and disbursed to, the 67 counties annually.

- This bill funds these annual county allocations from General Revenue rather than from the Pari-mutuel Wagering Trust Fund. [Identical to CS/CS/HB 725, 1st Eng.]
- The bill includes intent language to alleviate concerns of any potential adverse impact on local obligations. Specifically, the state covenants with holders of bonds or other instruments of indebtedness issued prior to July 1, 2000, that it is not the intent of this legislation to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments. [Identical to CS/CS/HB 725, 1st Eng.]
- Maintains \$3.5M balance in Pari-mutuel Wagering Trust Fund.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 561.501(1), Florida Statutes (Page 6)

- Reduces alcoholic beverage surcharge tax by one-third
- Exempts non-profit organizations from payment of alcoholic beverage surcharge

Section 2. Amends s. 561.121(4), Florida Statutes (Page 7)

- Increases the percentage of alcoholic beverage surcharge receipts [from 13.6% to 27.2%] distributed to the CASA TF

Section 3. Amends s. 212.20(6), Florida Statutes (Page 7)

- Disburses \$29.5M GR to counties in lieu of disbursement from PMW TF

Section 4. Repeals s. 550.01215(8), Florida Statutes (Page 10)

- Repeals subsection (8) which allows permit holders to use their facility for concerts, trade shows, expositions, etc., subject to local ordinance

Section 5. Amends s. 550.135, Florida Statutes (Page 10)

- Eliminates \$29.5M disbursement to counties from PMW TF; conforms to Section 3.
- Maintains \$3.5M balance in PMW TF

Section 6. Amends s. 550.0951(1),(3), (5) and (6), Florida Statutes (Page 12)

Greyhounds:

- Applies tax exemptions and daily license fee tax credits to any tax as well as daily license fees imposed by Chapter 550 [not just against live handle]; may transfer exemption or credit to any ITW host for credit against any tax or daily license fees
- Live and simulcast rate reduced from 7.6% to 5.5%
- ITW rate reduced from 7.6% to 5.5%
- Charity performances remain at 7.6%
- ITW exchanged in the Jacksonville, Tampa Bay, and South Florida market areas is reduced from 6% to 3.9%
- ITW of ISW reduced from 7.6% to 5.5%

Thoroughbreds:

- ITW reduced from 3.3% to 2%; except if exchange of signal is between thoroughbreds reduced from 3.3% to 0.5% or if a host track sends ITW outside its market area to a guest track in the market area of a live thoroughbred track
- ITW of ISW stays at 2.4%
- ITW of ISW between Calder and Tampa Bay remains at 0.5%

Harness:

- ITW remains at 3.3%
- ITW of ISW is reduced from 2.4% to 1.5%

Jai Alai:

- Live rates reduced from 4.25% or 3.85% to no higher than 2%

Quarter Horses [no races conducted during FY 1998-99]

- Live rate reduced from 3.3% to 1.0%
- Simulcast rate reduced from 3.3% to 1.0%
- ITW rate reduced from 3.3% to 2%

This section also:

- Applies the same criteria to the transfer of exemptions that is applied to the transfer of tax credits regarding the Division's authority to disapprove the transfer.
- Eliminates the additional five percent tax assessed on the surcharge on winning tickets.
- Deletes the provision which splits tax on handle, admissions tax and breaks between the General Revenue Fund and Pari-mutuel Wagering Trust Fund and directs all to the Pari-mutuel Wagering Trust Fund.
- Changes the schedule for remitting taxes and fees imposed at pari-mutuel events from twice weekly to once per week.

Section 7. (Page 17)

- Forgives tax penalty for both Hialeah and Gulfstream operating at same facility and precludes action to collect

Section 8. Amends s. 550.09514 (Page 18)

- Provides that greyhound permitholders pay no tax on the live or market area ITW handle until they realize a tax savings of \$360,000 per state fiscal year or \$500,000 for the three panhandle tracks; deletes \$100,000 threshold. Makes technical amendments for purposes of conformity and clarity.

Creates a new subsection (2)(e) dealing with purses:

- Requires each greyhound permitholder to pay as purses an amount equal to one-third of the tax break on the live and simulcast handle
- Requires the guest track pay as purses an amount equal to one-third of the tax break for the guest track handle when host and guest greyhound tracks are not within the same market area
- Requires that one-third of the tax break applicable to the guest track shall be paid as purses at the host track when the guest track is a greyhound track within the market area of the host or if the guest track is not a greyhound track
- Requires purses be disbursed the week received if the permitholder conducts at least one live performance that week; otherwise, if the track is dark the purses are to be disbursed weekly during the permitholder's next race meet according to a specified formula.

Formula: divide the purse amount by the number of performances approved for the permitholder pursuant to its annual license and multiply that amount by the number of performances conducted each week.

- Requires the division to conduct audits as necessary to ensure compliance

Section 9. Amends s. 550.09515(2), (5), (6) and creates a new subsection (7) (Page 23)

- Live and simulcast thoroughbred rates reduced as follows:
 - Calder/Tropical reduced from 1.25% to 0.5%
 - Gulfstream Park reduced from 2.0% to 0.5%
 - Hialeah Park remains at 0.2%
 - Tampa Bay Downs remains at 0.5%
- Eliminates penalty for a thoroughbred “facility” being operated in more than one period but leaves penalty for a permitholder operating in more than one period
- ITW of ISW rate remains at 2.4% in the bill for the signal exchange between Calder and Tampa Bay Downs
- Provides tax credit to tracks for their contributions to Jockeys Guild for benefits fund in an amount equal to the contribution but not greater than 1% of prior year taxes
- Redirects the deposits of the tax on ITW of simulcast horseraces from the General Revenue Fund to the Pari-mutuel Wagering Trust Fund

Section 10. Prospectively amends s. 550.09515, Florida Statutes (Page 26)

- Amends legislation passed in 1998 Session which would have raised tax rates effective 2001 to prior higher levels; instead institutes a uniform live tax rate of 0.5% for all thoroughbred tracks beginning 7/1/01.

Section 11. Amends s. 550.1645, Florida Statutes (Page 26)

- Conforming language relating to escheats [outs/unclaimed prize tickets]

Section 12. Creates s. 550.1647, Florida Statutes (Page 27)

- Gives greyhound tracks a credit for the amount of escheats [outs] paid to the state in the previous state fiscal year
- Requires an amount equal to at least 10% of the credit to be paid by the track from any source, including the proceeds from charitable performances, to a bonafide greyhound adoption organization

Section 13. Creates a new s. 550.615(8), Florida Statutes (Page 28)

- Authorizes any greyhound track in the Jacksonville market area which leases another greyhound track in the same market area, for purposes of conducting live racing, to also receive ITW at the dark, pre-lease facility

Section 14. Amends s. 550.0555, Florida Statutes (Page 33)

- Allows a jai-alai fronton to move within a 30 mile radius to another location in the same county without a referendum, as long as there are not other jai-alai permits in that same county
- Requires consistency with comprehensive plan

Section 15. Amends s. 550.09512(2), Florida Statutes (Page 34)

- Live and simulcast harness tax rate reduced from 1% to 0.5%

Section 16. Amends s. 550.475, Florida Statutes (Page 34)

- Allows a fronton to lease its facility to another jai alai permitholder that is located within 35 miles to conduct jai alai games; present subsection (1) is deleted by omission.

Section 17. Amends s. 550.625(1), Florida Statutes (Page 35)

- Increases from 6.125% to 7% of handle the amount a thoroughbred or quarterhorse track must pay as purses on ITW

Section 18. Amends s. 550.155(2), Florida Statutes (Page 35)

- Adds 'counties' to current law requiring municipalities to approve capital improvements that are contiguous or within pari-mutuel facilities, unless the improvement creates a hazard to the health and safety of residents.

Section 19. Amends s. 550.26352(3), (5), (6), (8) & (10), Florida Statutes (Page 36)

- Increases tax credit from \$500,000 to \$950,000 for thoroughbred track which must close during the Breeders' Cup Meet
- Increases tax credit from \$800,000 to \$950,000 for capital improvements at thoroughbred track conducting Breeders' Cup Meet
- Deletes provision prohibiting permitholder conducting Breeders' Cup from sending broadcasts of the Meet to any facility within 25 miles unless all other operating permitholders in the market consent
- Gives the division authority to waive rules for the Meet

Section 20. Amends s. 550.6305(9), Florida Statutes (Page 40)

- Conforming amendment to properly reference renumbered s. 550.615(12) relating to forced signal between Calder and Hialeah

Section 21. Amends s. 550.002(31), Florida Statutes (Page 40)

- Technical amendment to definition

Section 22. Amends s. 550.0351(8) & (9), Florida Statutes (Page 41)

- Makes permanent the authority for jai alai permitholders to conduct two charity performances; otherwise, repeals July 1, 2000

Section 23. Amends s. 550.105, Florida Statutes (Page 42)

- Restructures categories for occupational licensing; allows adoption of rules

Section 24. Amends s. 550.24055(2), Florida Statutes (Page 50)

- Amends provisions providing that licensees impliedly consent to chemical breath tests for alcohol and urine tests for drugs; reduces presumption of intoxication from .10 BAL to .08 BAL

Section 25. Amends s. 550.26165(1), Florida Statutes (Page 51)

- Requires no less than 17% nor more than 40% of the amount dedicated to breeders and stallion awards to be used for thoroughbred stake races in accordance with plan agreed upon among permitholder, FTBA and FHBPA, or in case of Tampa Bay, the majority horsemen's association
- Conforms increased breeder and stallion awards funding from .75% of thoroughbred handle to .955% in Section 26

Section 26. Amends s. 550.2625(2) & (3), Florida Statutes (Page 53)

- Raises minimum purse requirement for thoroughbreds from 7.5% of handle to 7.75%
- Raises the minimum purse requirement for live harness handle from 8% to 8.25% of which 7.75% is paid in purses and 0.5% is paid for benefits to harness occupational licensees [Identical to Section 3, HB 1463]
- Increases funding for breeder and stallion awards from .75% handle to .955%
- Increases stallion and breeders awards from 3.3% to 3.475% of gross revenue derived for broadcasting live thoroughbred race to another state
- Provides for additional awards

Section 27. Amends s. 550.3551(6), Florida Statutes (Page 61)

- Names FHBPA along with FTBA [existing law] as the associations whose consent is required before thoroughbred permitholder may conduct fewer than 8 live races unless the department determines another group represents the majority of horsemen

Section 28. Amends s. 550.6308(1), (4) and a new (5), Florida Statutes (Page 62)

- Removes restrictions on times and types of pari-mutuel events on which Ocala Breeders Sales [OBS] can take ITW provided all operating permitholders in county consent
- Requires OBS to pay 2.5% of greyhound and jai alai handle to other thoroughbred tracks operating live in state for purses

Section 29. Amends 773.01(7), Florida Statutes (Page 64)

- Amends definition of "participant" to include the horse itself

Section 30. Amends 773.03(1), Florida Statutes (Page 64)

- Makes the liability provisions of Chapter 773 relating to equine activities applicable to the horseracing industry as defined in Chapter 550

Sections 31-43. (Page 64)

- Creates the Interstate Compact on Licensure of Participants in Pari-Mutuel Wagering; licenses issued by compact committee will be honored by states which are a party to the compact

Section 44. Repeals s. 550.615(9), Florida Statutes (Page 73)

- Repeals duplicate OBS language [see s. 550.6308 in section 28]

Section 45. (Page 73)

- Creates a tax credit for jai alai permitholders equal to one-quarter of the escheats paid to the state in the prior fiscal year
- Requires an amount equal to the credit to be paid to the National Association of Jai Alai Frontons to be used for promotion of the sport

Section 46. Effective date, July 1, 2000, except as otherwise provided. (Page 74)

III. **FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

A. **FISCAL IMPACT ON STATE GOVERNMENT:**

1. **Revenues:**

This bill restructures the collection and deposit of tax revenue so that all pari-mutuel tax collections will be deposited into the Pari-mutuel Wagering Trust Fund. [See FISCAL COMMENTS]

The tax credits, exemptions, and reductions contained in this legislation will result in reduced revenue collections of \$22.5 million for FY 2000-01.

Further, the reduced alcoholic beverage surcharge rate and exemption for specified 501(c) entities will result in reduced surcharge collections of approximately \$40.3 million for FY 2000-01, including \$1.2 million for non-profit organizations.

2. Expenditures:

The Department of Business and Professional Regulation will incur the costs associated with notifying affected licensees of the statutory changes enacted by this legislation as well as the reprogramming of appropriate data collection and audit programs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Passage of this legislation will result in significant tax savings, credits and increased purses to the state's pari-mutuel industry of approximately \$22.5 million for FY 2000-01. Estimated tax reductions by industry are as follows:

Greyhound:	\$14.44m
Harness:	\$ 0.61m
Jai Alai:	\$ 0.43m
Thoroughbred:	\$ 7.05m

This bill reduces the surcharge rate by one-half. Further, the bill exempts qualifying non-profit 501(c) corporations from collecting the alcoholic beverage surcharge effective July 1, 2000. The surcharge tax reduction will result in reduced tax liability for alcoholic beverage retailers which sell alcohol for on-premises consumption of over \$40 million for FY 2000-01.

D. FISCAL COMMENTS:

The present statutorily required \$29.9 million disbursement to counties is required to be made from the Pari-mutuel Wagering Trust Fund. If that fund does not contain sufficient revenue to make the disbursements, the Division is authorized to transfer sufficient funds from pari-mutuel tax collection deposits to the General Revenue Trust Fund to cover the deficit if the deficiency does not exceed the deposits. For the past several years, it has been necessary to make such transfers from one fund to the other in order to make the required disbursements to the counties. The statutes do not provide an alternative funding source in the event there are insufficient funds to cover these disbursements.

This bill eliminates this problem by funding the \$29.9 million distribution to counties from the General Revenue Fund and deposits all future pari-mutuel tax receipts into the Pari-mutuel Wagering Trust Fund. The legislation also allows the Pari-mutuel Wagering Trust Fund to maintain a \$3.5 million balance.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Department of Business and Professional Regulation is authorized to adopt rules pertaining to specified exemptions and occupational licenses and to waive certain rules during the Breeders' Cup Meet.

C. OTHER COMMENTS:

This legislation contains all, or a portion of, or is substantially similar to each of the following bills: CS/HB's 695 & 1165, 1st Eng., HB 705, CS/CS/HB 725, 1st Eng., HB 945, CS/HB 1179, HB 1435, CS/HB 1463, HB 2117, SB 1080, CS/CS/SB 2324, SB 1600, SB 1630, SB 1936, SB 956, SB 2138, SB 1532, SB 2022, SB 1954, and SB 216.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Chronology of Amendments

As introduced, SB 770, amended s. 561.501, F.S., and reduced the alcoholic beverage surcharge by one-half, exempted certain specified 501(c) organizations from paying the surcharge, repealed the surcharge completely effective September 1, 2001 and increased the disbursements to the Children and Adolescents Substance Abuse Trust Fund sufficiently to offset any reduction in disbursements to that fund due to reduced surcharge collections.

On February 23, 2000, the Senate Committee on Fiscal Resources adopted a committee substitute for the bill. The CS/SB 770 deleted the prospective repeal of the surcharge but otherwise remained identical to the bill as originally filed.

STORAGE NAME: s0770s2z.rs

DATE: May 10, 2000

PAGE 19

On March 13, 2000, the Senate Regulated Industries Committee combined the CS/SB 770 with SB 286, which also addressed the surcharge. The CS/CS/SB 770 & 286 further expanded the list of exempt 501(c) organizations. The CS/CS/SB 770 & 286 passed the Senate, 37 Yeas, 1 Nay, on April 4, 2000.

The bill remained in House Messages until the last day of the Legislative Session.

On May 5, 2000, the House adopted an amendment to the CS/CS/SB 770 & 286 and returned the bill to the Senate, as amended, 107 Yeas, 4 Nays. The House amendment expanded the bill to include, not only a reduction in the surcharge rate, but also comprehensive amendments to the pari-mutuel code, as well as a provision relating to sales tax exemptions for specified types of businesses. [Bar Code 263483 - HJ 2211]

The Senate adopted an amendment by Senators Lee and Geller [Bar Code 375100 - SJ 1732] which deleted everything after the enacting clause and inserted new language. As amended, the bill further revised the pari-mutuel code, deleted the sales tax exemption for qualifying machinery and added an amendment to Chapter 563, relating to beer container sizes. The amendment to Chapter 563 was the substance of SB 214 and proposed to allow the sale of malt beverages in containers of 32 ounces or smaller.

On reconsideration, the Senate removed the beer container language and adopted an amendment which proposed to allow the Department of Business and Professional Regulation to adopt rules concerning container size restrictions, notwithstanding the provisions of Chapter 563 to the contrary. [Senate Amendment 2 (Bar Code 252052) to House Amendment 1 -- SJ 1881] The bill passed the Senate, as amended, 29 Yeas to 7 Nays.

Upon receipt, the House adopted an amendment [House Amendment 1 (Bar Code 024533) to unengrossed Senate Amendment 2 to House Amendment 1 -- HJ 2440] deleting the provision relating to beer containers, 101 Yeas and 16 Nays, and returned the bill to the Senate.

The Senate concurred in the House amendment and passed the bill, as amended, 33 Yeas and 4 Nays.

The bill became law without the Governor's signature and became Chapter 00-354, Laws of Florida.

VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

Janet Clark Morris

Staff Director:

Paul Liepshutz

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Carol Dickson-Carr

Staff Director:

Alan Johansen

STORAGE NAME: s0770s2z.rs

DATE: May 10, 2000

PAGE 20

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON REGULATED SERVICES:

Prepared by:

Staff Director:

Janet Clark Morris

Paul Liepshutz