

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1422

SPONSOR: Regulated Industries Committee and Senator Garcia

SUBJECT: Pari-mutuel Licensing

DATE: March 11, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaccaro	Caldwell	RI	Favorable/CS
2.	_____	_____	CA	_____
3.	_____	_____	AGG	_____
4.	_____	_____	AP	_____
5.	_____	_____	RC	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute for Senate Bill 1422 provides that if a thoroughbred permitholder fails to operate all performances scheduled on its 2001-2002 license, failure to pay tax on handle for a full schedule of live races for those performances does not constitute failure to pay tax on handle for a full schedule of live races in a fiscal year for the purposes of s. 550.09515(3), F.S. The committee substitute also provides that a thoroughbred permitholder who fails to operate all performances on its 2001-2002 license does not lose its right to retain its permit. The committee substitute provides that a thoroughbred permitholder shall file an amendment with the division no later than May 31, 2002, that indicates that it will not be able to operate the performances on its 2002-2003 license without imposition of any penalty for failure to operate all licensed performances provided in ch. 550, F.S. Finally, the committee substitute provides that any quarter horse permit holder operating under a valid permit issued before January 1, 2002, which has not relocated after December 31, 2001, to a county other than the county that appears on the original permit application are authorized to substitute other races of other breeds of horses.

This committee substitute substantially amends the following sections of the Florida Statutes: 550.09515, 550.334, and 550.5251.

II. Present Situation:

The regulation of pari-mutuel wagering is governed by ch. 550, F.S. Regulation is administered by the Division of Pari-mutuel Wagering (division) within the Department of Business and Professional Regulation. Pari-mutuel activities include: thoroughbred racing, harness racing, quarter horse racing, greyhound racing, and jai alai. Persons who wish to conduct pari-mutuel wagering in Florida are required to file a permit application with the division as provided for in s. 550.054, F.S. Each permit issued by the division specifies the name of the permitholder, the

location of the pari-mutuel facility, the type of pari-mutuel activity desired to be conducted, and a statement of the applicant's qualifications. A permit is ineffectual, however, until approved by a majority of the electors participating in a ratification election in the county in which the applicant proposes to conduct pari-mutuel wagering activities.

Section 550.0115, F.S., provides that after a permit has been issued by the division, and after the permit has been approved by election, the division is required to issue each permitholder an annual license to conduct pari-mutuel operations. Pursuant to s. 550.01215(1), F.S., permitholders must annually, between December 15 and January 4, apply with the division for a license to conduct performances during the next state fiscal year. With the exception of thoroughbred racing, the division issues each license by March 15. Pursuant to s. 550.5251(2), F.S., thoroughbred racing licenses are issued on February 15, and thoroughbred permitholders may request changes up to March 31. The thoroughbred racing season runs from June 1 to May 31 of the following year.

Section 550.01215(3), F.S., requires each permitholder to operate all performances at the date and time specified on its license. Absent events beyond its control, if a permitholder fails to operate all performances as specified on its license, the division is required to hold a hearing to determine whether to fine or suspend the permitholder's license. Furthermore, s. 550.5251(2), F.S., provides that each thoroughbred permitholder must operate the full number of days authorized on each of the dates on its license as a condition precedent to the validity of its license and its right to retain its permit.

Pursuant to s. 550.0951(3), F.S., each permitholder is required to pay to the division tax on contributions to pari-mutuel pools on races or games conducted, the aggregate of which is referred to as "handle." Section 550.09515(3)(a), F.S., provides that the permit of a thoroughbred horse permitholder who does not pay tax on handle for live thoroughbred performances for a full schedule of live racing during any two consecutive state fiscal years shall be void and shall escheat to and become the property of the state, absent events beyond its control. Financial hardship, in and of itself, does not constitute just cause for failure to operate and pay tax on handle.

Section 550.334, F.S., addresses substitution of races by quarter horse permitholders. Section 550.334(7)(a), F.S., authorizes quarter horse racing permitholders to substitute other races of other breeds of horses which are registered with the American Paint Horse Association, Appaloosa Horse Club, Arabian Horse Registry of America, Jockey Club, Palomino Horse Breeders of America, or United States Trotting Association. There is currently no quarter horse pari-mutuel racing being conducted in Florida.

III. Effect of Proposed Changes:

Section 1 creates subsection (8) of s. 550.09515, F.S., which provides that if a permitholder fails to operate all performances scheduled on its 2001-2002 license, failure to pay tax on handle for a full schedule of live races for those performances does not constitute failure to pay tax on handle for a full schedule of live races in a fiscal year for the purposes of s. 550.09515(3), F.S. The committee substitute provides, however, that subsection (8) may not be construed as forgiving a thoroughbred permitholder from paying taxes on performances conducted at its facility pursuant

to its 2001-2002 license other than for failure to operate all performances on its 2001-2002 license.

Section 2 creates subsections (6) and (7) of s. 550.5251, F.S. Subsection (6) provides that notwithstanding the provisions of subsection (2), a thoroughbred permitholder who fails to operate all performances on its 2001-2002 license does not lose its right to retain its permit. Such permitholder is eligible for issuance of an annual license pursuant to s. 550.0115, F.S., for subsequent racing seasons. The committee substitute also provides that the division shall not take disciplinary action against a permitholder for failure to operate all licensed performances for the 2001-2002 license pursuant to this section or s. 550.01215, F.S. The committee substitute provides that this section may not be interpreted to prohibit the division from taking disciplinary action against a thoroughbred permitholder for failure to pay taxes on performances pursuant to its 2001-2002 license.

Subsection (7) provides that a thoroughbred permitholder shall file an amendment with the division no later than May 31, 2002, that indicates that it will not be able to operate the performances on its 2002-2003 license without imposition of any penalty for failure to operate all licensed performances provided in ch. 550, F.S.

Section 3 amends paragraph (a) of subsection (7) of s. 550.334, F.S., to provide that any quarter horse permit holder operating under a valid permit issued before January 1, 2002, which has not relocated after December 31, 2001, to a county other than the county that appears on the original permit application is authorized to substitute other races of other breeds of horses.

Section 4 provides that except as otherwise expressly provided in this act, the act takes effect upon becoming a law and applies retroactively to any thoroughbred permitholder that obtained a license for the 2001-2002 racing season.

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:

Failure of a thoroughbred permitholder to pay tax on handle for a full schedule of live races for those performances scheduled on its 2001-2002 license will not constitute

failure to pay tax on handle for a full schedule of live races in a fiscal year for the purposes of s. 550.09515(3), F.S.

B. Private Sector Impact:

Thoroughbred permitholders who are unable to operate all performances and pay taxes on handle for failure to operate during the 2001-2002 racing season will be allowed to retain their permits and not be subject to disciplinary action.

Any applicant for a quarter horse racing permit, or any quarter horse racing permitholder who relocates to a different county after December 31, 2001, will be unable to race other races of other breeds of horses. However, the division reports that there is currently only one quarter horse racing permitholder in Florida, and no races are being conducted. That permitholder will only be affected if it decides to relocate its facility to a county other than the one appearing on its application.

C. Government Sector Impact:

The committee substitute limits the division's ability to take disciplinary action against thoroughbred permitholders under limited circumstances.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.