

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1781 Thoroughbred Permitholders; Hialeah Park
SPONSOR(S): Committee on Business Regulation and Priguez
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Business Regulation</u>	<u>34 Y, 0 N</u>	<u>Morris</u>	<u>Liepshutz</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Thoroughbred permitholders are required to apply each year between the months of December and January for operating dates for the upcoming Thoroughbred Racing Season which runs from June 1 of one year to May 31 of the next year. If a permitholder continues to meet the qualifications required to initially obtain and to retain a permit, by February 15 of each year the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation must issue a *license* to operate on the dates requested. A permitholder has an additional period of time to amend the dates approved in the license, but, thereafter, must operate on all dates specified in the license. Failure to operate a "full schedule of live races" during any two consecutive state fiscal years voids the *permit*, which then must go back (escheat) to the state for reissue.

This bill would remove from the law those provisions which void a *permit* of a thoroughbred permitholder for failing to operate a full schedule of live racing on the dates specified in the annual license. Additionally, the permit would no longer escheat to the state for reissue. However, a permitholder's failure to operate a full schedule of live racing would remain a basis for discipline, including fine or the potential suspension or revocation of a permit or license.

The bill contains new provisions allowing permitholders to irrevocably elect by a certain date not to operate live performances without jeopardizing the continuing validity of their permit. The bill specifically addresses the current situation of Hialeah Park, which is in jeopardy of losing its permit for failing to operate during the 2001-2002 and 2002-2003 Thoroughbred Racing Seasons. The bill excuses the Hialeah Park permitholder from discipline for failing to operate for two consecutive seasons and specifies that the permit shall remain valid and in good standing. The bill also extends to July 1, 2003 the deadline for Hialeah Park to elect whether to operate live performances during the 2003-2004 racing season.

This bill will have no fiscal impact on state revenue expenditures or collections.

The bill takes effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1781.br.doc
DATE: March 27, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Currently, between December 15 of each year and January 4 of the following year, a thoroughbred permitholder must file an application for licensure specifying the dates and times the permitholder intends to operate in the upcoming Thoroughbred Racing Season, which runs from June 1 of one year until May 31 of the next year.¹ If the permitholder remains eligible to hold a permit, the Division of Pari-mutuel Wagering (DPMW) must issue a license on or before February 15 of each year. The permitholder can amend the application until March 31 of each year but, thereafter, the permitholder must operate a full schedule of live racing as specified in its license as a condition precedent to preserving the validity of the license and the right to retain the permit. If the permitholder fails to operate a full schedule of live racing for two consecutive state fiscal years, the *permit* becomes void and escheats to the state for reissue.²

The bill deletes paragraphs (a) and (b) of s.550.09515(2) that require a permit to be voided and become available for reissue whenever a thoroughbred permitholder fails to operate a full schedule of live racing for two consecutive years. The bill also changes the date when the PMW is required to issue a license from February 15, to on or before April 30 of each year. March 31 is the last day for amending a license. Consequently, the DPMW will no longer issue a license before the deadline for amending an application for dates has elapsed. The bill provides a new procedure allowing a permitholder to make an irrevocable election, by February 15 of each year, not to operate live performances in the ensuing Thoroughbred Racing Season. An election not to operate will not affect the future validity of a permit. However, permitholders who do not make a timely election will be subject to discipline including, a fine or potential suspension or revocation of their license or permit.

The bill specifically addresses the possible loss of Hialeah Park's permit due to Hialeah's failure to operate a full schedule of live racing during the 2001-02 and the 2002-03 Thoroughbred Racing Seasons. The bill excuses from discipline any thoroughbred permitholder who failed to operate in the specified two seasons and states that the permit of such permitholder remains valid and in good standing. The bill also extends to July 1, 2003, the deadline for Hialeah Park to make an irrevocable election not to operate during the 2003-04 season.

C. SECTION DIRECTORY:

Section 1. Amends s. 550.09515, F.S., to delete paragraphs (a) and (b) of subsection (2) relating to provisions requiring a permit to be voided and to escheat to the state for failing to operate a full schedule of live racing.

¹ s. 550.5251, F.S.

² s.550.09515 (2) (a), (b), F. S.

Section 2. Amends s. 550.5251(2), F.S., to require the DPMW to issue a license on or before April 30 of each year, rather than by February 15 of each year. The bill further provides that a permit holder may irrevocably elect not to operate by a date certain without jeopardizing the validity of a permit; subjects permit holders who have not made an election to discipline and potential revocation or suspension of a permit or license for not operating a schedule of live racing; excuses from discipline and preserves the validity of a permit of any thoroughbred permit holder who did not operate a full schedule of live racing during specific racing seasons; and extends the deadline for electing not to operate during the 2003-2004 Thoroughbred Racing Season.

Section 3. Provides an effective date upon becoming law

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate: Hialeah Park will be able to retain its permit, which has value should the current ownership decide to conduct live racing and other permissible wagering activities, or sell the facility to another entity in the future.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or cities to spend funds or take an action requiring the expenditure of funds; does not reduce the authority that cities or counties have to raise revenues in the aggregate; and does not reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill does not provide any additional rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On February 14, 2003, the Division of Pari-mutuel Wagering of DBPR instituted an administrative complaint and notice of intent to deny license against Hialeah Racing Association, LLC. The PMW is seeking the assessment of a fine and an order finding that Hialeah's current license is no longer valid and its permit should be revoked since it has not conducted a full schedule of live racing in accordance with licenses issued to it for the 2001-02 and 2002-03 Thoroughbred Racing Seasons.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES