

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1075

Pari-mutuel Permitholders

**SPONSOR(S):** Garcia

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2004

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation Committee	_____	Shoemaker	Liepshutz
2) Finance & Tax Committee	_____	_____	_____
3) Commerce Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

Under Fla. Stat. § 550.5251, thoroughbred permitholders are required to apply each year between December 15 and January 4 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, the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation (the Division) must issue a *license* by February 15 of each year to operate on the dates requested. A thoroughbred 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 reverts to the state for reissue.

This bill amends Fla. Stat. § 550.5251 to provide that thoroughbred permitholders who conducted racing between January 1, 1987 and January 1, 2005 would be eligible to apply for and receive thoroughbred racing days and dates as part of the "Florida Thoroughbred Racing Season." The bill goes on to change the requirement that thoroughbred permitholders must operate the full number of racing days and dates as set forth in the issued license. Therefore, a thoroughbred racing *permit* would retain its validity (i.e., be in full force and effect) regardless of any action or potential action brought against the permit by the Division and consequently, 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 similar to greyhound and jai alai permitholders.

The bill appears to be an attempt to revive the Hialeah Park thoroughbred racing permit which was revoked by the Division of Pari-Mutuel Wagering of the Department of Business and Professional Regulation on November 3, 2004 for failure to operate a full racing schedule during the prior three seasons.

This bill provides an effective date of July 1, 2005.

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

**STORAGE NAME:** h1075.BR.doc

**DATE:** 3/20/2005

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – According to the analysis of this bill provided by the Division of Pari-Mutuel Wagering of the Department of Business and Professional Regulation (the Division), it is indeterminate whether this bill reduces or increases government. However, the language in this bill decreases the enforcement authority the Division has over violations of Fla. Stat. Chapter 550 or Section 849.086 by any thoroughbred permitholder. Therefore, the Division may be unable to accomplish its full regulatory mission as a result of insufficient enforcement authority.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Chapter 14832, Laws of Florida,<sup>1</sup> authorized pari-mutuel wagering on thoroughbred horses, harness horses and greyhounds. Pari-mutuel wagering was authorized for jai-alai performances in 1935<sup>2</sup> and for quarter horses in 1941.<sup>3</sup> The state has traditionally enforced a wide range of regulatory controls over the daily operations of pari-mutuel permitholders. These controls have been primarily designed to protect the health of the pari-mutuel industry, integrity of the games, and, subsequently, the state revenues generated by wagering activities.

The original legislation authorizing pari-mutuel wagering on thoroughbreds prohibited head-to-head competition between thoroughbred tracks located in the same county and the Racing Commission in existence at that time was required to set non-conflicting racing dates to ensure that the tracks did not operate at the same time. The governing statute at that time did not require a permitholder to operate all authorized performances and did not provide for the revocation of a permit for a permitholder's failure to operate all authorized performances. For several years there was an annual legislative debate concerning thoroughbred racing dates.

Numerous amendments to Fla. Stat. Chapter 550 have been implemented in more recent years including the repeal of the Racing Commission, repeal of the prohibition for head-to-head competition, and implementation of a uniform tax rate for thoroughbreds. In addition, current law contains provisions that require the Division to seek the revocation of thoroughbred permits and harness horse permits for failure to operate but does not contain similar forfeiture provisions for greyhound or jai alai permitholders.

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.<sup>4</sup> If the permitholder remains eligible to hold a permit, the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation (the Division) must issue a license on or before February 15. 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.<sup>5</sup>

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<sup>1</sup> Later codified as FLA. STAT. ch. 550 (2004).

<sup>2</sup> 1935 Fla. Laws ch. 17074.

<sup>3</sup> 1941 Fla. Laws ch. 25354.

<sup>4</sup> FLA. STAT. § 550.5251 (2004).

<sup>5</sup> FLA. STAT. § 550.09515(3)(a),(b) (2004).

## Summary of Legislation

This bill amends Fla. Stat. § 550.5251 to provide that thoroughbred permitholders who conducted racing between January 1, 1987 and January 1, 2005 would be eligible to apply for and receive thoroughbred racing days and dates as part of the "Florida Thoroughbred Racing Season." The bill goes on to change the requirement that thoroughbred permitholders must operate the full number of racing days and dates as set forth in the issued license. Accordingly, thoroughbred permitholders may no longer be obligated to run performances on dates that are specifically requested by the permitholder. Consequently, a thoroughbred racing *permit* would retain its validity (i.e., be in full force and effect) regardless of any action or potential action brought against the permit by the Division and consequently, 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 similar to greyhound and jai alai permitholders.

According to the analysis of this bill provided by the Division, the bill's proposed statute changes may affect the regulation and operation of the pari-mutuel industry in the following ways:

- The Division may be unable to adequately plan for and staff events to complete all licensing, sample collection, and other regulatory functions;
- It may be difficult for horsemen and horse associations to timely deliver an adequate number of racing animals;
- Breeders' and owners' awards may be unfairly disbursed; and
- It may create confusion for patrons.

Additionally, the proposed language in this bill decreases the enforcement authority the Division has over violations of Fla. Stat. Chapter 550 or Section 849.086 by any thoroughbred permitholder. Therefore, the Division may be unable to accomplish its full regulatory mission as a result of insufficient enforcement authority.

The bill appears to be an attempt to revive the Hialeah Park thoroughbred racing permit which was revoked by the Division of Pari-Mutuel Wagering of the Department of Business and Professional Regulation on November 3, 2004 for failing to operate a full racing schedule during the prior three seasons. However, it should be noted that Hialeah Park appealed the Division's decision to revoke its permit to the Florida Third District Court of Appeal and the litigation is currently pending.<sup>6</sup>

### C. SECTION DIRECTORY:

#### **Section 1:**

**Subsection 1:** Amends the dates under which each thoroughbred permitholder must have conducted operations to annually apply for and receive racing days and dates from January 1, 1987 to January 1, 2005.

**Subsection 2:** Removes the provision that a thoroughbred permitholder must operate the full number of days authorized as a condition precedent to the validity of its license and the right to retain its permit.

**Subsection 3:** Provides that each permitholder referenced in subsection (1) is validated and continues in full force and effect "irrespective of any action that the division may take or may have heretofore taken against the permit."

**Section 2:** Provides an effective date of July, 1, 2005.

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<sup>6</sup> The case number of the appeal is 3D04-3001.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

According to the analysis of this bill provided by the Division of Pari-Mutuel Wagering of the Department of Business and Professional Regulation, the fiscal impact of this bill regarding state government revenues is indeterminate due to "the numerous potential scenarios and variables that would exist within the [pari-mutuel] industry without regulatory enforcement and oversight."

#### 2. Expenditures:

According to the analysis of this bill provided by the Division of Pari-Mutuel Wagering of the Department of Business and Professional Regulation, the fiscal impact of this bill regarding state government expenditures is indeterminate due to "the numerous potential scenarios and variables that would exist within the [pari-mutuel] industry without regulatory enforcement and oversight."

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

Unknown.

#### 2. Expenditures:

Unknown.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Thoroughbred permitholders may benefit due to the greater freedom and flexibility for operating the race meet and Hialeah Park may be able to assert that it is entitled to the permit that was revoked in November 2004.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

None.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.