

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: CS/CS/SB 2378

INTRODUCER: General Government Appropriations Committee, Regulated Industries Committee and Senator Aronberg

SUBJECT: Pari-mutuel Wagering Permitholders

DATE: April 22, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bedford</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Frederick</u>	<u>DeLoach</u>	<u>GA</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill authorizes a jai alai permitholder to apply to the Department of Business and Professional Regulation (department or DBPR) for conversion of an existing permit to a greyhound permit under certain conditions. The permit must be located in a county where the division has issued two pari-mutuel permits. The permit must not have been previously converted from any other class of permit. There must not have been any jai alai games conducted for the previous ten years prior to the request for conversion. The jai alai permit applicant must meet all the conditions of s. 550.054, F.S. A permitholder of a converted permit under this section is required to apply for and conduct a full schedule of live racing each fiscal year to be eligible for the tax credits provided by chapter 550, Florida Statutes. The provisions of section 550.6305(9)(d) and (f), Florida Statutes, will continue to apply to any permit converted under this subsection.

The Revenue Estimating Conference indicates that implementation of this bill will have an insignificant but positive fiscal impact on the General Revenue Fund.

The Division of Pari-mutuel Wagering will experience a minimal increase in workload as a result of the implementation of the bill. However, the division has indicated that the increased workload can be handled within existing resources.

This bill substantially amends section 550.054, Florida Statutes.

II. Present Situation:

Permits

The Division of Pari-mutuel Wagering (division) within the Department of Business and Professional Regulation issues permits to conduct pari-mutuel wagering. Types of permits include greyhound, thoroughbred, quarter horse, harness, and jai alai. Once a permit has been issued, a license to conduct pari-mutuel performances can be subsequently issued upon application to conduct live performances. The pari-mutuel license authorizes the permit holder to conduct live performances.¹ A pari-mutuel permit does not expire, but can be revoked upon voter approval or by the division for willful violations of ch. 550, F.S., or rules adopted under the authority of ch. 550, F.S.²

Currently, pari-mutuel permits are specific to the type of pari-mutuel wagering sanctioned and “licenses” are only issued for the specific type of game or race authorized by the permit. A permit holder can apply to conduct alternative pari-mutuel activities under limited circumstances, as follows.

- Permitholders meeting certain criteria may apply to convert their permit to conduct a summer jai alai fronton during the summer season only.³
- Quarter horse permitholders may substitute races of other breeds of horses under certain restrictions.⁴
- Harness track permitholders may apply for licensure to conduct quarter horse races during the summer season under certain restrictions.⁵

The division provides oversight to:

- Thirty-eight licensed permitholders.
 - Eighteen greyhound.
 - Four thoroughbred.
 - One harness.
 - Eight jai alai.
 - One track offering limited intertrack wagering and horse sales.
 - Six quarter horse (which are not operating at this time) and six pending applications.
- Nineteen cardrooms operating at pari-mutuel facilities.
- Three slot facilities located in Broward County pari-mutuel facilities.

¹ Section 550.175, F.S.

² Section 550.054(9)(b), F.S.

³ See s. 550.0745, F.S.

⁴ See s. 550.334(7), F.S.

⁵ See s. 550.3355, F.S.

- A fourth slot facility is authorized in Broward County and three are authorized in Miami-Dade County.

Greyhound racing was authorized in Florida in 1931.⁶ Betting is permitted on the outcome of the races around an oval track. The greyhounds typically chase a “lure,” which is usually a mechanical hare or rabbit. Racing greyhounds are those which are bred, raised, or trained to be used in racing at a pari-mutuel facility and are registered with the National Greyhound Association.⁷

Horse racing, like greyhound racing, was also authorized in the State of Florida in 1931. Currently, the state authorizes three forms of horse racing classes for betting; thoroughbred, harness, and quarter horse racing. Florida currently has approximately 600 horse farms throughout the state which generate a direct economic impact of approximately \$3 billion.⁸

Thoroughbred racing involves only horses specially bred and registered by certain bloodlines. The thoroughbred industry is highly regulated and specifically overseen by national and international governing agencies. Thoroughbred horses are defined as “a purebred horse whose ancestry can be traced back to one of three foundation sires and whose pedigree is registered in the American Stud Book or in a foreign stud book that is recognized by the Jockey Club and the International Stud Book Committee.”⁹ Pari-mutuel betting is allowed on the outcome of the race which runs typically from one mile to one and one-quarter of a mile.¹⁰

Harness racing in the State of Florida is currently only permitted at the Pompano Park facility. Harness racing uses standardbred horses, which are a “pacing or trotting horse ... that has been registered as a standardbred by the United States Trotting Association” (USTA) or by a foreign registry whose stud book is recognized by the USTA.¹¹

Quarter horse racing is currently legal in the State of Florida, but at the present time there are six valid permits that are not in operation.¹² Quarter horses are defined as those developed in the western United States which are capable of high speed for a short distance.¹³ They are registered with the American Quarter Horse Association. Quarter horse racing is over a much shorter distance than other race classes with races only permitted at less than 870 yards. Since February 1, 2008, the division has received six new quarter horse permit applications.

⁶ *Deregulation of Intertrack and Simulcast Wagering at Florida's Pari-mutuel Facilities*, Interim Report No. 2006-145, Florida Senate Committee on Regulated Industries, September 2005.

⁷ Section 550.002(29), F.S.

⁸ Estimate provided by the representative of the Florida Breeders' and Owners' Association. The Department of Agriculture and Consumer Services has estimated that direct impact of the entire horse industry, comprising racing, showing, recreation, and other activities, is approximately \$3 billion.

⁹ Section 550.002(35), F.S.

¹⁰ Anything over 870 yards is considered a thoroughbred racing distance.

¹¹ Section 550.002(33), F.S.

¹² As of February 14, 2008.

¹³ Section 550.002(28), F.S.

Jai alai is a game originating from the Basque region in Spain played in a fronton¹⁴ in which a ball is hurled through the court and points are assessed based on legal throws and catches. Jai alai was first permitted in 1935. Florida is now the only state where Jai alai is currently played.

During the 2004 General Election, the electors approved Amendment 4 to the State Constitution, codified as s. 23, Art. X of the State Constitution, which authorized slot machines at existing pari-mutuel facilities in Miami-Dade and Broward Counties upon an affirmative vote of the electors in those counties. Both Miami-Dade and Broward Counties held referenda elections on March 8, 2005. The electors approved slot machines at the pari-mutuel facilities in Broward County, but the measure was defeated in Miami-Dade County. Under the provisions of the amendment, four pari-mutuel facilities are eligible to conduct slot machine gaming in Broward County: Gulfstream Park Racing Association (a thoroughbred permitholder), The Isle Casino and Racing at Pompano Park (a harness racing permitholder), Dania Jai Alai (a jai alai permitholder), and Mardi Gras Race Track and Gaming Center (a greyhound permitholder). Legislation was passed during the 2005 Special Session B, HB 1B, ch. 2005-362, L.O.F., that implemented Amendment 4 pursuant to the provisions of the constitutional amendment. The division is charged with regulating the operation of slot machines in the affected counties. Of the four eligible in Broward County, all are operating except Dania Jai Alai.

On January 29, 2008, another referendum was held under the provisions of Amendment 4, in which the slot machines in Miami-Dade County were approved. Three additional pari-mutuel facilities are now eligible to conduct slot machine gaming in Miami-Dade County: Miami Jai Alai (a jai alai permitholder), Flagler Greyhound Track (a greyhound permitholder), and Calder Race Course (a thoroughbred permitholder).

Pari-mutuel facilities within the state are also allowed to operate poker cardrooms under s. 849.086, F.S. The cardrooms are facilities “where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility.”¹⁵ The authorized games at the cardrooms include a game or series of games of poker or dominoes played in a non-banking manner, i.e. where the facility has no stake in the outcome. Such activity is regulated by the department and must be approved by ordinance of the county commission where the pari-mutuel facility is located.

Patrons to pari-mutuel events can wager on live races at the facility or live races being conducted at other racetracks in Florida or out-of-state. The wagers on races being conducted at other racetracks fall into two categories: wagers on live races occurring at other Florida tracks and on live races at tracks outside the state.

Wagers on live races at other tracks are divided into categories called intertrack and simulcast wagering under the Florida Statutes. Intertrack wagering is defined as “a particular form of pari-mutuel wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal re-

¹⁴ “A building or enclosure that contains a playing court with three walls designed and constructed for playing the sport of Jai Alai or pelota,” Section 550.002(10), F.S.

¹⁵ Section 849.086(2)(c), F.S.

broadcast from, another in-state pari-mutuel facility.” Simulcast wagering is defined as “broadcasting events occurring live at an in-state location to an out-of-state location, or receiving at an in-state location events occurring live at an out-of-state location, by the transmittal, retransmittal, reception, and re-broadcast of television or radio signals by wire, cable, satellite, microwave, or other electrical or electronic means for receiving or re-broadcasting the events.” Intertrack and simulcast wagering interactions occur at guest and host tracks. A host track is defined as “a track or fronton conducting a live or simulcast race or game that is the subject of an intertrack wager” which may serve as the in-state re-broadcast point for an out-of-state race or game.¹⁶ A host track transmits signals to a guest track, and the guest track takes wagers on that signal. A guest track is a track or fronton receiving or accepting an intertrack wager.¹⁷ An intertrack simulcast is one in which an out-of-state pari-mutuel facility broadcasts its race to a Florida pari-mutuel facility, and then the Florida pari-mutuel facility re-broadcasts the out-of-state contest to another pari-mutuel facility or facilities within Florida. Simulcasting and intertrack wagering have rules and regulations depending on the *market area*, which is defined as an area within 25 miles of a permitholder’s track or fronton.¹⁸

Simulcasting may only be accepted between facilities with the same class of pari-mutuel wagering permit,¹⁹ e.g., horseracing permitholders may only receive and broadcast signals from other horseracing permitholders. However, simulcasting also includes the re-broadcast of the signal to in-state permitholders and certain exceptions apply.²⁰ Simulcast signals must be made available to all permitholders eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, F.S.²¹ Horse tracks licensed under ch. 550, F.S., may only receive broadcasts of horse races conducted outside the state while the track is racing live.²² All broadcasts of horse races sent to locations outside of Florida or received from locations outside of Florida must comply with the provisions of the Interstate Horseracing Act of 1978, 92. Stat. 1811, 15 U.S.C. ss. 3001, et seq.²³

The wagering system in the pari-mutuel industry is a complicated combination of different bets, odds, payouts, and taxes. When a person places a bet, the pari-mutuel facilities use a *totalisator system*, a computer based system that records and totals the bets on races in specific pools and calculates, displays, and orders payouts on the specific bets.²⁴

Mileage Restrictions

Section 550.054(2), F.S., imposes mileage restrictions on permit applications for the following.

¹⁶ Section 550.002(16), F.S.

¹⁷ Section 550.002(12), F.S.

¹⁸ Section 550.002(13), F.S.

¹⁹ Section 550.3551, F.S.

²⁰ Section 550.615, F.S.

²¹ Section 550.6305(9)(g)1., F.S.

²² Section 550.3551(3), F.S., provides that “[a]ny horse track licensed under this chapter may receive broadcasts of horse races conducted at other horse racetracks located outside this state at the racetrack enclosure of the licensee during its racing meet.” A meet is defined by s. 550.002(20), F.S., as the “conduct of live racing or Jai Alai for any stake, purse, prize, or premium.” (emphasis added)

²³ See s. 550.3551(2)(a) and (3)(a), F.S.

²⁴ Section 550.002(36), F.S.

- Horse races, harness horse races, or dog races at a location within 100 miles of an existing pari-mutuel facility.
- Jai alai games within 50 miles of an existing pari-mutuel facility.

Permit Conversion

Section 550.01215(6), F.S., allows any permit that was converted from a jai alai permit to a greyhound permit, to be converted to a jai alai permit at any time if the permit holder never conducted greyhound racing, or if the permit holder has not conducted greyhound racing for a period of 12 consecutive months.

The department pointed out that previous statutory provisions relating to the conversion of a ratified jai alai permit to a dog racing permit were repealed by s. 30, ch. 91-197, L.O.F.²⁵ Under these provisions, in order for the conversion to have been authorized, the following conditions were required.

- The permit could not have been revoked in a referendum.
- Greyhound races must have been conducted at the same location as jai alai games.
- The same number of performances and race days must have been conducted as in the jai alai permit.
- The permit must have been subject to all provisions of law concerning pari-mutuel taxes paid by tracks conducting dog racing if:
 - The average pari-mutuel handle for any fiscal year during the 10 years immediately preceding the application for conversion has not exceeded \$110,000.
 - The jai alai fronton is located at least 55 miles in distance from any dog track.

Two jai alai permits, held by Golden Crown Corporation (Big Bend Jai Alai) and Sports Palace (Melbourne Kennel Club) have been converted to greyhound permits in the past under these provisions.

Permit Relocation

Section 550.0555, F.S., allows a greyhound or jai alai permit holder to potentially relocate as long as there is only one greyhound or jai alai permit holder within the county. Specifically, it states:

Any holder of a valid outstanding permit for greyhound dog racing in a county in which there is only one dog racing permit issued, as well as any holder of a valid outstanding permit for jai alai in a county where only one jai alai permit is issued, is authorized, without the necessity of an additional county referendum required under s. 550.0651, F.S., to move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that county, provided the move does not cross the county boundary, that such relocation is approved under the zoning regulations of the county or municipality in which the permit is to be located as a planned development

²⁵ See s.550.076, F.S. (1990).

use, consistent with the comprehensive plan, and that such move is approved by the department after it is determined at a proceeding pursuant to chapter 120 in the county affected that the move is necessary to ensure the revenue-producing capability of the permittee without deteriorating the revenue-producing capability of any other pari-mutuel permittee within 50 miles; the distance shall be measured on a straight line from the nearest property line of one racing plant or jai alai fronton to the nearest property line of the other.

Facility Leasing

Section 550.475, F.S., allows a permit of the same class to lease their facility to another permit of the same class. Specifically, it states:

Holders of valid pari-mutuel permits for the conduct of any jai alai games, dog racing, or thoroughbred and standardbred horse racing in this state are entitled to lease any and all of their facilities to any other holder of a same class valid pari-mutuel permit for jai alai games, dog racing, or thoroughbred or standardbred horse racing, when located within a 35-mile radius of each other; and such lessee is entitled to a permit and license to operate its race meet or jai alai games at the leased premises.

Currently, there are two greyhound facilities that lease their facilities to other greyhound permitholders under s. 550.475, F.S. Orange Park Kennel Club leases its facilities to Jacksonville Kennel Club and Best Bet/Bayard at St. Johns that run their live races at the Orange Park facility. Derby Lane leases its facilities to Tampa Greyhound Track which runs its races at the Derby Lane facility.

III. Effect of Proposed Changes:

The bill amends s. 550.054, F.S., as it pertains to the application for a pari-mutuel permit to conduct pari-mutuel wagering, to provide jai alai permitholders the option to convert to a greyhound permit under the following conditions.

- The permit is located in a county where the division has issued two pari-mutuel permits.
- The permit must not have been previously converted from any other class of permit.
- Jai alai games have not been conducted during a period of 10 years immediately preceding its application for conversion.

The jai alai permit applicant for conversion must meet all the conditions of Section 550.054, F.S. To be eligible for the tax credits provided by this chapter, a permitholder of a converted permit under this section is required to apply for and conduct a full schedule of live racing each fiscal year. Certain greyhound permitholders may relocate within a 30-mile radius of the location fixed in the permit, provided the move does not cross the county line and the location is approved under the zoning regulations.

As long as the above conditions are met, the division may issue a permit and license to conduct greyhound races. The provisions of s. 550.6305(9)(d) and (f), F.S., will apply to any permit converted under this subsection and will continue to apply to any permit which was previously included under and subject to such provisions.

There are two jai alai permitholders that are currently inactive that are eligible to convert their permit as authorized in the bill:

- Volusia Jai Alai, who has not conducted live games since Fiscal Year 1991-1992.
- Palm Beach Jai Alai, who has not conducted live games since Fiscal Year 1994-1995.

Jacksonville Kennel Club is eligible to move its location under the provisions of this bill. Jacksonville Kennel Club is also eligible to conduct Intertrack and simulcast wagering and to operate a cardroom at its facility under the provisions of this bill.

This bill provides an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference reports that implementation of this bill will have a positive but insignificant fiscal impact on the General Revenue Fund.

B. Private Sector Impact:

The private sector could benefit from this legislation by taking inactive jai alai permits and converting them to operating greyhound permits. The costs associated with doing this are indeterminate.

C. Government Sector Impact:

The division has indicated that it will experience a minimal increase in workload. However, this increase can be handled with existing personnel.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by General Government Appropriations Committee on April 22, 2008:

The committee substitute:

- Adds the requirement that a permit must not have been converted from any other class of permit to qualify for conversion.
- Requires a converted permit to apply for and conduct a full schedule of live racing each fiscal year to be eligible for any tax credits.
- Allows certain greyhound permitholders to relocate within a 30-mile radius of the location fixed in the permit, provided the move does not cross the county line and the location is approved under the zoning regulations.

CS by Regulated Industries on April 1, 2008:

The committee substitute:

- Deletes the requirement that a permit cannot have previous conversions from any other class of permit in order to be converted from a jai alai permit to a greyhound permit.
- Adds the requirement the permit be located in a county where the division has issued two pari-mutuel permits in order to be converted.
- Provides that the provisions of s. 550.6305(9)(d) and (f), F.S., apply to any permit converted under this subsection which was previously included under and subject to such provisions.

B. Amendments:

None.