

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 Committee on Fiscal Policy

BILL: CS/SB 1032

INTRODUCER: Regulated Industries Committee and Senator Richter and others

SUBJECT: Point-of-sale Terminals

DATE: April 14, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Fav/CS
2.	<u>Howard</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Favorable
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1032 allows limited use of point-of-sale terminals for the sale of lottery tickets or games. The bill authorizes the Department of the Lottery (department), approved vendors, and approved retailers to use point-of-sale terminals to facilitate sales of lottery tickets or games, provided that the purchaser is verified to be 18 years of age or older. A point-of-sale terminal does not reveal winning numbers or dispense lottery winnings and may not be used to redeem a winning ticket. Lottery ticket sales revenue generated from point-of-sale terminals must be used to enhance instructional technology resources for students and teachers in Florida.

Allowing the convenience of purchasing lottery tickets at the pump or at similar point-of-sale terminals may increase ticket sales. An impact conference would be needed to estimate the lottery ticket sales revenue that could be generated from point-of-sale terminals.

II. Present Situation:

The Florida Lottery

Article X, s. 15 of the Florida Constitution allows lotteries to be operated by the state. Section 24.102(2), F.S., provides:

- The net proceeds of lottery games shall be used to support improvements in public education;
- Lottery operations must be undertaken as an entrepreneurial business enterprise; and

- The department must be accountable through audits, financial disclosure, open meetings, and public records laws.

The department's purpose is to maximize revenues "consonant with the dignity of the state and the welfare of its citizens,"¹ for the benefit of public education.² The department contracts with retailers (e.g., supermarkets, convenience stores, gas stations, and newsstands) to provide adequate and convenient availability of lottery tickets.³ Retailers receive commissions of 5 percent of the ticket price, 1 percent of the prize value for redeeming winning tickets, and bonus and performance incentive payments. Retailers are eligible to receive bonuses for selling select winning tickets and performance incentive payments.⁴

Lottery tickets can be purchased with a credit or charge card or other instrument issued by a bank, savings association, credit union, charge card company, or by a retailer (for installment sales of goods), provided that the lottery ticket purchase is in addition to the purchase of other goods and services costing not less than \$20.⁵

The department has the authority to adopt rules governing the types of lottery games to be conducted, including lottery terminals or devices that "may be operated solely by the player without the assistance of the retailer."⁶

The Seminole Gaming Compact

On April 7, 2010, the Governor and the Seminole Tribe of Florida (Tribe) executed a compact governing gambling (Gaming Compact) at the Tribe's seven⁷ tribal facilities in Florida.⁸ The Gaming Compact has a 20-year term and was ratified by the Legislature, with an effective date of July 6, 2010.⁹

The Gaming Compact authorizes the Tribe to conduct Class III gaming¹⁰ which includes house-banked card games, casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, slot machines, and pari-mutuel wagering.¹¹ The Gaming Compact provides that in exchange for the exclusive right to offer slot machine gaming outside of Miami-

¹ Section 24.104, F.S.

² See s. 24.121(2), F.S.

³ See s. 24.105(17), F.S.

⁴ The Florida Legislature, Office of Program Policy Analysis and Gov't Accountability, *Lottery Transfers Continue to Increase; Options Remain to Enhance Transfers and Improve Efficiency*, p. 1 fn. 3, Report No. 15-03 (January 2015) available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1503rpt.pdf> (last accessed April 10, 2015).

⁵ Section 24.118(1), F.S.

⁶ Section 24.105(9)(a), F.S.

⁷ The Tribe has three gaming facilities in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), one in Collier County (Seminole Indian Casino-Immokalee), one in Glades County (Seminole Indian Casino-Brighton), one in Hendry County (Seminole Indian Casino-Big Cypress), and one in Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa).

⁸ *Gaming Compact between the Seminole Tribe of Florida and the State of Florida*, available at http://www.myfloridalicense.com/dbpr/pmwd/documents/2010_Compact-Signed1.pdf (last accessed April 11, 2015).

⁹ Chapter 2010-29, L.O.F.

¹⁰ The Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2710.

¹¹ *Supra* note 9.

Dade and Broward counties and banked card games at five of its seven¹² casinos, the Tribe will make revenue sharing payments to the state. The state's share increases incrementally from 12 percent for the first \$2 billion in annual net win, to 25 percent for annual net win greater than \$4.5 billion.¹³ In FY 2013-14, the Tribe paid \$237 million.¹⁴

The Gaming Compact provides that any expanded gaming beyond what is specifically acknowledged in the compact relieves the Tribe of its obligations to make substantial revenue sharing payments to the state of Florida.¹⁵ The Gaming Compact allows for the types of lottery games authorized under ch. 24, F.S., on February 1, 2010.¹⁶ However, the Compact does not allow for any games that are "player-activated or operated machine or device other than a Lottery Vending Machine" or the use of a lottery vending machine to redeem winning tickets.¹⁷

Office of Program Policy Analysis and Government Accountability (OPPAGA) Recommendations to Enhance Lottery Earnings

The OPPAGA is required to conduct an annual financial audit of the department and provide recommendations to enhance the state lottery's earning capability and operational efficiency.¹⁸ The OPPAGA noted that expanding product distribution could increase revenues for education.¹⁹ A suggested option was Play at the Pump, which would allow for lottery purchases to be part of a transaction while buying gas or using an ATM. A benefit of the Play at the Pump option is the possible expansion of the retailer network to nontraditional locations.²⁰

The OPPAGA report considered whether the convenience of purchasing lottery tickets at the pump or at similar point-of-sale terminals might cause in-store sales to decline and found that states that have these types of games have not been negatively affected.²¹

III. Proposed Changes:

The bill authorizes the department to create a program and adopt rules for the purchase of lottery tickets at point-of-sale terminals by persons over 18 years of age. (**Section 2**)

The bill defines the term "point-of sale terminal" as an electronic device used to process credit card, debit card, or other similar charge card payments at retail locations which is supported by networks that enable verification, payment, transfer of funds, and logging of transactions.

(**Section 1**) A point-of-sale terminal allows the purchase of lottery tickets while purchasing of other retail goods or services. Current lottery vending machines dispense lottery tickets only.

¹² *Id.* Banking or banked card games may not be offered at the Brighton or Big Cypress facilities unless and until the state allows any other person or entity to offer those games.

¹³ *Id.*

¹⁴ Revenue Estimating Conference, *Indian Gaming Revenues Feb. 2015 Forecast*, available at <http://edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingResults.pdf> (last accessed April 11, 2015).

¹⁵ *Supra* note 8 at 43.

¹⁶ *Id.* at 10 and 42.

¹⁷ *Id.* and s. 24.112(15)(c), F.S.

¹⁸ Section 24.123, F.S. The Joint Legislative Auditing Committee directed the OPPAGA to conduct the required examination.

¹⁹ *Supra* note 4 at 15.

²⁰ *Id.* at 16.

²¹ *Id.* See also at 17, fn. 3, for a discussion of Minnesota's implantation of such an option.

The bill allows the department, a retailer operating from one or more locations, or a vendor approved by the department to use point-of-sale terminals to sell lottery tickets or games.

(Section 3) The bill provides that a point-of-sale terminal must:

- Dispense a paper lottery ticket with numbers selected by the purchaser or selected randomly by the machine after the purchaser uses a credit, debit, or charge card, or other similar card issued by a bank, savings association, credit union, or a charge card company or retailer;
- Recognize a valid driver license or use another age verification process approved by the department to ensure that only persons at least 18 years of age may purchase a lottery ticket or game;
- Process a lottery transaction through a platform that is certified or otherwise approved by the department; and
- Be in compliance with all applicable department requirements related to the lottery ticket or game offered for sale.

A point-of-sale terminal may not:

- Reveal winning numbers, which are selected at a subsequent time and different location through a drawing by the Florida Lottery;
- Include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. This does not preclude the use of casino game themes or titles on a lottery ticket or game or on the signage or advertising displays on the terminal;
- Be used to redeem a winning ticket.

Revenue generated from point-of-sale terminals must be used to enhance instructional technology resources for students and teachers in Florida.

The bill is effective upon becoming a law.

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:

None.

B. Private Sector Impact:

The bill allows for retailers and vendors approved by the department to use point-of-sale terminals for sales of lottery products. The convenience of purchasing lottery tickets at the pump or at similar point-of-sale terminals may increase retailer commissions (5 percent of lottery ticket sales) by an indeterminate amount. The bill may also reduce in-store sales by an indeterminate amount.²²

C. Government Sector Impact:

The bill authorizes the department to establish, at its option, procedures for using point-of-sale terminals to sell lottery tickets. The convenience of purchasing lottery tickets at the pump or at similar point-of-sale terminals may increase lottery ticket sales by an indeterminate amount. An impact conference would be needed to estimate the lottery ticket sales revenue that could be generated from point-of-sale terminals. The bills directs this revenue to be used for the enhancement of instructional technology resources for students and teachers in Florida.

It is estimated that the vendor will absorb the majority of the costs to establish the program with minimal costs to the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Under the Gaming Compact, the Florida Lottery may conduct lottery games through player-activated or operated machines that meet the definition of “Lottery Vending Machine” without violating the Gaming Compact.²³ The Gaming Compact requirements of a “Lottery Vending Machine” are identical to the requirements provided by the bill for point-of-sale terminals. However, the bill does allow for the use a credit, debit, or charge card, or other similar card issued by a bank, savings association, credit union, or a charge card company or retailer at point-of-sale terminals which is not included in the Gaming Compact’s definition of “Lottery Vending Machine.”

The bill provides authority for the department to adopt rules for the purchase of lottery tickets at point-of-sale terminals.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 24.103, 24.105, and 24.112.

²² *Id.*

²³ *Supra* note 8 at 10.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries Committee on March 24, 2015:

The committee substitute requires lottery ticket sales revenue generated from point-of-sale terminals to be used to enhance instructional technology resources for students and teachers in Florida.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
