

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.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: SPB 7088

INTRODUCER: Regulated Industries Committee

SUBJECT: Gaming

DATE: April 13, 2015

REVISED: 4/14/15

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Kraemer	Imhof		<u>RI Submitted as Committee Bill</u>
1.			

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**I. Summary:**

SPB 7088 provides for amendment of the existing Gaming Compact between the Seminole Tribe of Florida (Tribe) and the State of Florida. One amendment extends the authorization to the Tribe to conduct banked card games such as blackjack and baccarat at five of its seven gaming facilities, on the same terms, until July 31, 2016. After that date, banked card games may no longer be conducted by the Tribe without any time to phase the games out. Another amendment exempts slot machine gaming from the exclusive authorization granted to the Tribe at pari-mutuel facilities in Palm Beach and Lee Counties. The Governor is authorized and directed to execute an amendment to the Gaming Compact on the same terms and conditions as provided in the bill, without further revision, and to seek approval of the amendment from the United States Secretary of the Interior, as required by federal law. Legislative ratification of the amendment is not required, if the amendments to the Gaming Compact strictly conform to the requirements in the bill.

The bill revises provisions related to greyhound permitholders. Live racing is no longer required in order to conduct intertrack and simulcast wagering or operate cardrooms. Tax credits are eliminated, and the tax rate is reduced to 1.28 percent.

If slot machine gaming is exempted from the Gaming Compact, pari-mutuel facilities in Palm Beach and Lee Counties may apply for licensure as slot machine facilities. Revenue sharing with the Tribe would be reduced by 90 percent of the revenue the State receives from the new slot machine gaming, and 10 percent of the revenue would be transferred to thoroughbred tracks that do not have slot machines for purses. The Department of Business and Professional Regulation indicated that this would affect Tampa Bay Downs in Hillsborough County and possibly the limited thoroughbred tract at Ocala Breeder Sales in Marion County.

The bill includes provisions relating to reporting of greyhound injuries.

The bill allows all slot machine licensees to discontinue live racing or games if any slot machine licensee is authorized to discontinue live racing or games.

## II. Present Situation:

In general, gambling is illegal in Florida.<sup>1</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>2</sup> running a lottery,<sup>3</sup> or the manufacture, sale, lease, play, or possession of slot machines.<sup>4</sup> Certain exceptions have been authorized, with restrictions on permitted locations, operators, and prizes, including penny-ante games,<sup>5</sup> bingo,<sup>6</sup> cardrooms,<sup>7</sup> charitable drawings,<sup>8</sup> game promotions (sweepstakes),<sup>9</sup> bowling tournaments,<sup>10</sup> and amusement games and machines.<sup>11</sup>

Section 7 of Article X of the 1968 State Constitution provides, “Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state.”<sup>12</sup>

Section 15 of Article X of the State Constitution (adopted by the electors in 1986) provides for state operated lotteries:

Lotteries may be operated by the state.... On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

Section 24.102, F.S., creates the Department of the Lottery and states the Legislature’s intent that it be self-supporting and revenue-producing and function as an entrepreneurial business enterprise.<sup>13</sup>

Section 23 of Article X of the State Constitution (adopted by the electors in 2004) provides for slot machines in Miami-Dade and Broward Counties:

After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective

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<sup>1</sup> Section 849.08, F.S.-

<sup>2</sup> Section 849.01, F.S.

<sup>3</sup> Section 849.09, F.S.

<sup>4</sup> Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

<sup>5</sup> Section 849.085, F.S. Section 849.085(2)(a), F.S., provides that “[p]enny-ante game” means a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game do not exceed \$10 in value.”

<sup>6</sup> Section 849.0931, F.S.

<sup>7</sup> Section 849.086, F.S.

<sup>8</sup> Section 849.0935, F.S.

<sup>9</sup> Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>10</sup> Section 849.141, F.S.

<sup>11</sup> Section 849.161, F.S.

<sup>12</sup> The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

<sup>13</sup> The Department of the Lottery is authorized by FLA. CONST. art. X, s. 23. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., provides the legislative purpose and intent in regard to the lottery.

counties on whether to authorize slot machines within existing, licensed parimutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such parimutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

Chapter 285, F.S., ratified the Gaming Compact<sup>14</sup> between the State of Florida and the Seminole Tribe of Florida (Tribe). It provides that it is not a crime for a person to participate in raffles, drawings, slot machine gaming, or banked card games (e.g., blackjack or baccarat) at a tribal facility operating under the Gaming Compact.<sup>15</sup>

### **Indian Gaming Regulatory Act of 1988**

Gaming on Indian lands is governed by the Indian Gaming Regulatory Act (IGRA),<sup>16</sup> which categorizes gaming into three classes:

- “Class I gaming” means social games for minimal value or traditional forms of Indian gaming engaged in by individuals for tribal ceremonies or celebrations;<sup>17</sup>
- “Class II gaming” includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo.<sup>18</sup> Class II gaming may also include certain non-banked card games, but only if the games are permitted (or not explicitly prohibited) by state law, are conducted in compliance with state law,<sup>19</sup> and if:
  - The state in which the tribe is located permits such gaming for any purpose by any person, organization, or entity; and
  - The governing body of the tribe adopts a gaming ordinance that is approved by the Chairman of the National Indian Gaming Commission.<sup>20</sup>
- “Class III gaming” includes all forms of gaming that are not Class I gaming or Class II gaming, such as house-banked card games, casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, and pari-mutuel wagering.<sup>21</sup>

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<sup>14</sup> See *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, April 27, 2010 (*Gaming Compact*) at [http://www.myfloridalicense.com/dbpr/pmw/documents/2010\\_Compact-Signed1.pdf](http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf) (last visited April 10, 2015).

<sup>15</sup> See Section 285.710, F.S., especially subsections (3), (13), and (14). The seven tribal locations where gaming is authorized by the compact are: (1) Seminole Hard Rock Hotel & Casino—Hollywood (Broward); (2) Seminole Indian Casino—Coconut Creek (Broward); (3) Seminole Indian Casino—Hollywood (Broward); (4) Seminole Hard Rock Hotel & Casino—Tampa (Hillsborough); (5) Seminole Indian Casino—Immokalee (Collier); (6) Seminole Indian Casino—Brighton (Glades); and (7) Seminole Indian Casino—Big Cypress (Hendry). Banked card games are not authorized at the Brighton and Big Cypress casinos.

<sup>16</sup> Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701 *et seq.*

<sup>17</sup> 25 U.S.C. s. 2703(6).

<sup>18</sup> 25 U.S.C. s. 2703(7).

<sup>19</sup> 25 U.S.C. s. 2703(7)(A)(ii).

<sup>20</sup> 25 U.S.C. s. 2710(b)(1).

<sup>21</sup> 25 U.S.C. s. 2703(8).

The Indian Gaming Regulatory Act provides that before a tribe may lawfully conduct Class III gaming, certain conditions must be met:

- The particular form of Class III gaming must be allowed in the state in which the tribe is located;
- A gaming compact must be negotiated by the tribe and the state, approved by the Secretary of the United States Department of the Interior, and be in effect; and
- A tribal gaming ordinance must be adopted by the tribe and approved by the Indian Gaming Commission or its chairman.<sup>22</sup>

### Seminole Gaming Compact

On April 7, 2010, the Governor and the Seminole Tribe of Florida (Tribe) executed a Gaming Compact governing gambling at the Tribe's seven tribal facilities in Florida.<sup>23</sup> The Gaming Compact authorizes the Tribe to conduct Class III gaming, and was subsequently ratified by the Legislature, with an effective date of July 6, 2010,<sup>24</sup> as required by IGRA.

The Gaming Compact has a 20-year term. It grants authority to the Tribe to offer slot machines, raffles and drawings, and any other new game authorized for any person for any purpose, at all seven tribal casinos.<sup>25</sup> The Gaming Compact also grants exclusive authorization, for a five-year period that ends July 31, 2015, for the Tribe to conduct banked card games, including blackjack, chemin de fer, and baccarat, at all of its casinos except those at the Brighton and Big Cypress facilities.

If these banked games are authorized for any other person for any other purpose (unless authorized by a compact with the Miccosukee Indians), then the Tribe is authorized to offer banked cards at all seven of its facilities. The exclusive authority to the Tribe for banked card games terminates on July 31, 2015, unless renewed by the Legislature.<sup>26</sup>

In exchange for the Tribe's exclusive right to conduct slot machine gaming outside of Miami-Dade and Broward counties and the exclusive right throughout the State of Florida to offer banked card games at the specified facilities (these grants of authority are known as the "exclusivity provision"), the Gaming Compact provides for revenue sharing payments to be made by the Tribe to the state. These payments are calculated using amounts known as "net win" amounts, or the total receipts from gaming as described in the Gaming Compact, less all prize payouts and free play or promotional credits issued by the Tribe."<sup>27</sup>

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<sup>22</sup> 25 U.S.C. s. 2710(d).

<sup>23</sup> *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 38833 (hereinafter *Gaming Compact*). See [http://www.myfloridalicense.com/dbpr/pmw/documents/2010\\_Compact-Signed1.pdf](http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf) (last visited April 10, 2015).

<sup>24</sup> Chapter 2010-29, L.O.F.

<sup>25</sup> Part IV of *Gaming Compact* at pages 12-13. The Tribe has three gaming facilities located in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa).

<sup>26</sup> See Part XVI, Section C. of *Gaming Compact* at page 49.

<sup>27</sup> See Part III, Section U. of the *Gaming Compact*, at page 11, which defines "net win" as "the total receipts from the play of all Covered Games less all prize payouts and free play or promotional credits issued by the Tribe." "Covered games" includes

The revenue sharing payments to be made by the Tribe, and the impact to state revenue attributed to not extending to the Tribe the exclusive right to offer table games after July 31, 2015, are as follows:

- During the initial period (first 24 months), \$12.5 million per month (\$150 million per year);
- After the initial period (first 24 months), a guaranteed minimum revenue sharing payment of \$233 million for year 3, \$233 million for year 4, and \$234 million for year 5;
- After the initial period (first 24 months), the greater of:
  - the guaranteed minimum payment; or
  - payments based on a variable percentage of annual net win that range from 12 percent of net win up to \$2 billion, to 25 percent of the amount of any net win greater than \$4.5 billion.
- After the first 5 years, the Tribe will continue to make payments to the state based on the percentage of net win without a guaranteed minimum payment; and
- If the Legislature does not grant another authorization to the Tribe to offer banked card games after July 31, 2015, the net win calculations will exclude the net win from the Tribe's three casino facilities in Broward County. The Legislature's Office of Economic Demographics and Research estimates that annual state revenue will be impacted by a loss of \$136.6 million in the first year after banked card games are no longer authorized to be offered by the Tribe (Fiscal Year 2015-2016),<sup>28</sup> and in future years, the estimated losses are:
  - \$164.9 million in Fiscal Year 2016-2017;
  - \$170.0 million in Fiscal Year 2017-2018;
  - \$173.6 million in Fiscal Year 2018-2019; and
  - \$177.3 million in Fiscal Year 2019-2020.

The Gaming Compact also addresses any expansion of gaming in Miami-Dade and Broward counties under the following limited circumstances:

- If new forms of Class III gaming and casino-style gaming are authorized for the eight licensed pari-mutuels located in Broward and Miami-Dade counties, and if the net win from the Tribe's Broward facilities drops for the year after the new gaming begins, then the Tribe may reduce the payments from its Broward facilities by 50 percent of the amount of the reduction in net win.<sup>29</sup>
- If new forms of Class III gaming and other casino-style gaming are authorized for other locations in Broward and Miami-Dade counties, then the Tribe may exclude the net win from their Broward facilities from their net win calculations when the new games begin to be played.
- If new games are authorized at any location in Broward and Miami-Dade counties within the first five years of the Gaming Compact, the guaranteed minimum payment would no longer

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slot machines, banking or banked card games including baccarat, chemin de fer, and blackjack (21), raffles and drawings, and any new game authorized by Florida law for any person for any purpose. An exception is made for banked card games conducted by other federally recognized, qualified tribes. See Part III, Section F. of the *Gaming Compact*, at page 3.

<sup>28</sup> See *Gaming: Revenue Overview* [http://edr.state.fl.us/Content/presentations/gaming/GamingRevenueOverview\\_3-26-15.pdf](http://edr.state.fl.us/Content/presentations/gaming/GamingRevenueOverview_3-26-15.pdf) (March 26, 2015) at page 11 (last visited April 10, 2015).

<sup>29</sup> The eight existing pari-mutuel locations are: (1) Calder Race Course—Miami Gardens (Miami-Dade); (2) Dania Jai Alai—Dania Beach (Broward); (3) Gulfstream Park—Hallandale Beach (Broward); (4) Hialeah—Hialeah (Miami-Dade); (5) Isle of Capri/Pompano Park—Pompano Beach (Broward); (6) Magic City/Flagler Greyhound Track—Miami (Miami-Dade); (7) Mardi Gras—Hallandale Beach (Broward); (8) Miami Jai Alai—Miami (Miami-Dade).

apply to the Tribe's revenue sharing payments, and the \$1 billion guarantee would not be in effect. The Tribe's payments would be based on the applicable percentage of net win.

Revenue sharing payments will no longer be payable by the Tribe<sup>30</sup> if:

- The state authorizes new forms of Class III gaming or other casino-style gaming after February 1, 2010, or authorizes Class III gaming or other casino-style gaming at any location outside of Broward and Miami-Dade counties that was not authorized for such games before February 1, 2010; and
- The new gaming begins to be offered for private or public use.

### **Local Government Revenue Share**

Local governments in the geographic area where Tribal casinos are located share in the revenue paid for the benefit of exclusivity under the Gaming Compact. Three percent of that revenue is designated as the local government share.<sup>31</sup> In Fiscal Year 2013-2014, the total local share amount was approximately \$7 million.<sup>32</sup> Section 285.710 (10), F.S., provides the following framework for the distributions to local government:

- From the net win derived from the Seminole Indian Casino-Coconut Creek:
  - Broward County 22.5 percent
  - City of Coconut Creek 55 percent
  - City of Coral Springs 12 percent
  - City of Margate 8.5 percent
  - City of Parkland 2 percent
- From the net win derived from the Seminole Indian Casino-Hollywood:
  - Broward County 25 percent
  - City of Hollywood 55 percent
  - Town of Davie 10 percent
  - City of Dania Beach 10 percent
- From the net win derived from the Seminole Hard Rock Hotel & Casino-Hollywood:
  - Broward County 25 percent
  - City of Hollywood 55 percent
  - Town of Davie 10 percent
  - City of Dania Beach 10 percent
- From the net win derived from the Seminole Indian Casino-Immokalee:
  - Collier County 100 percent
- From the net win derived from the Seminole Indian Casino-Brighton:
  - Glades County 100 percent

<sup>30</sup> Termination of revenue sharing is not triggered if the state grants authorization to conduct the following existing games: (1) gaming authorized by compacts with other federally recognized tribes; (2) specified State Lottery games, state-licensed pari-mutuel wagering, and state-licensed card rooms; (3) games authorized pursuant to ch. 849, F.S., as of February 1, 2010 (e.g., card rooms, penny-ante games, charitable bingo, sweepstakes, amusement games or machines); (4) slot machines at eight existing pari-mutuel facilities in Broward and Miami-Dade Counties; and (5) specified historic racing machines.

<sup>31</sup> See s. 285.710(9), F.S.

<sup>32</sup> See Revenue Estimating Conference Indian Gaming Revenues, Conference Results at <http://edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingResults.pdf> (February 19, 2015) (last accessed April 10, 2015).

- From the net win derived from the Seminole Indian Casino-Big Cypress:
  - Hendry County 100 percent.
- From the net win derived from the Seminole Hard Rock Hotel & Casino-Tampa:
  - Hillsborough County 100 percent

### **Pari-Mutuel Permitholders**

As of November 24, 2014, there were 39 pari-mutuel permitholders with operating licenses in Florida, operating at 12 greyhound tracks, 6 jai alai frontons, 5 quarter horse tracks, 3 thoroughbred tracks, and 1 harness track.<sup>33</sup> Of the 20 greyhound racing permitholders with operating licenses during 2013-2014, three permitholders conducted races at leased facilities.<sup>34</sup> Five pari-mutuel facilities have two permits operating at those locations.<sup>35</sup> One permitholder's operating license was suspended late in 2014,<sup>36</sup> so there are now 19 greyhound racing permitholders with operating licenses.<sup>37</sup>

Racing greyhounds are registered with the National Greyhound Association and are used in racing at a pari-mutuel facility, or have been used, bred, raised, or trained to be used for such racing.<sup>38</sup> According to the division, Florida is the leader in greyhound racing in the United States.<sup>39</sup>

### **Regulation by Division of Pari-Mutuel Wagering**

Greyhound racing is regulated by the Division of Pari-Mutuel Wagering in the Department of Business and Professional Regulation (division). The division has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties.

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<sup>33</sup> See Pari-Mutuel Wagering Permitholders With 2014-2015 Operating Licenses map at <http://www.myfloridalicense.com/dbpr/pmw/documents/MAP-Permitholders--WITH--2014-2015-OperatingLicenses--2014-11-24.pdf> (last visited Jan. 19, 2015).

<sup>34</sup> According to the Division of Pari-Mutuel Wagering (division), Tampa Greyhound conducts races at St. Petersburg Kennel Club (a.k.a. Derby Lane), and both Jacksonville Kennel Club and Bayard Raceways (St. Johns) conduct races at Orange Park Kennel Club.

<sup>35</sup> The division indicated that H & T Gaming @ Mardi Gras and Mardi Gras operate at a facility in Hallandale Beach, Daytona Beach Kennel Club and West Volusia Racing-Daytona operate at a facility in Daytona Beach, Palm Beach Kennel Club and License Acquisitions-Palm Beach operate at a facility in West Palm Beach, Miami Jai Alai and Summer Jai Alai operate at a facility in Miami, and Sanford-Orlando Kennel Club and Penn Sanford @SOKC operate at a facility in Longwood.

<sup>36</sup> See <http://www.myfloridalicense.com/dbpr/pmw/documents/CurrentPermitholdersList.pdf> (last visited Jan. 19, 2015) for a list of current permitholders and their licensing status.

<sup>37</sup> Information about racing greyhound permitholders for the fiscal years 2013-2014 and 2014-2015 is available at <http://www.myfloridalicense.com/dbpr/pmw/track.html> (last visited Jan. 19, 2015).

<sup>38</sup> Section 550.002(29), F.S.

<sup>39</sup> See the division's 83rd Annual Report, Fiscal Year 2013-2014, <http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2013-2014--83rd--20150114.pdf> (last visited Jan. 19, 2015) at page 25.

Under current law, a greyhound permitholder is not required to have an operating license if the permitholder is not currently conducting live racing.<sup>40</sup> There are 12 permitholders that do not have operating licenses for FY 2014-2015: 2 greyhound,<sup>41</sup> 3 jai alai, 1 limited thoroughbred,<sup>42</sup> and 6 quarter horse.

Greyhound permitholders must apply for an annual operating license, specifying the number, dates and starting times of all performances to be conducted.<sup>43</sup> A “performance” is a minimum of 8 consecutive live races.<sup>44</sup> At least three live performances must be held at a track each week.<sup>45</sup> When a permitholder conducts at least three live performances in a week, it must pay purses (cash prizes to participants) on wagers accepted at the track on certain greyhound races run at other tracks (in Florida or elsewhere).<sup>46</sup>

In order to receive an operating license, a greyhound permitholder must have conducted a full schedule of live racing during the preceding year,<sup>47</sup> that is, a minimum of 100 live performances.<sup>48</sup>

If a permitholder does not conduct all of the performances specified in its operating license, the division may determine whether to fine the permitholder or suspend<sup>49</sup> the license,<sup>50</sup> unless the failure is due to certain events beyond the permitholder’s control.<sup>51</sup> Financial hardship itself is not an acceptable basis to avoid a fine or suspension.<sup>52</sup>

According to the division, there were 19 license suspensions, and \$80,950 in fines assessed for violations of all pari-mutuel statutes and rules in Fiscal Year 2013-2014.<sup>53</sup>

## **Greyhound Care**

The division, by administrative rule adopted pursuant to s. 550.2415(12), F.S., requires notification of the death of a racing greyhound while in training or during a race on the grounds

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<sup>40</sup> See Pari-Mutuel Wagering Permitholders Without 2014-2015 Operating Licenses by Permit Type at <http://www.myfloridalicense.com/dbpr/pmw/track.html> (Last visited Jan. 19, 2015).

<sup>41</sup> North American Racing Association (Key West) and Jefferson County Kennel Club (Monticello).

<sup>42</sup> Under Section 550.3345, F.S., during Fiscal Year 2010-2011 only, holders of quarter horse permits were allowed to convert their permits to a thoroughbred racing permit, conditioned upon specific use of racing revenues for enhancement of thoroughbred purses and awards, promotion of the thoroughbred horse industry, and the care of retired thoroughbred horses. Two conversions occurred (Gulfstream-GPTARP and Ocala Thoroughbred Racing).

<sup>43</sup> Section 550.01215, F.S.

<sup>44</sup> Section 550.002(25), F.S.

<sup>45</sup> Section 550.002(11), F.S.

<sup>46</sup> Section 550.09514(2)(c), F.S.

<sup>47</sup> Section 550.002(11), F.S. In accordance with s. 550.002(38), F.S., a full schedule of live racing is calculated from July 1 to June 30, which is the state fiscal year.

<sup>48</sup> The performances may be during the day or in the evenings, as set forth in the schedule that is part of the operating license issued by the division.

<sup>49</sup> After Jefferson County Kennel Club failed to conduct scheduled performances, its operating license was suspended September 22, 2014 under a consent order. See the order at <http://www.myfloridalicense.com/dbpr/pmw/PMW-PermitHolderOperatingLicenses--2014-2015.html> (last visited April 10, 2015).

<sup>50</sup> Section 550.01215(4), F.S.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> See *supra* note 7, at page 3.

of a greyhound track or kennel compound.<sup>54</sup> The track must notify the division, within 18 hours, of the deceased animal's location, where the death occurred, and how to reach the kennel operator, trainer and the person making the report. Haulers or drivers who transport racing animals must be licensed, and greyhound trainers of record are responsible for physically inspecting the animals in their care for sores, cuts, abrasions, muzzle burns, fleas and ticks,<sup>55</sup>

If an animal is injured and later dies or is euthanized, the division may conduct a postmortem examination.<sup>56</sup>

According to the University of Pennsylvania School of Veterinary Medicine, fractures and dislocations of the racing greyhound can be of any type, but certain injuries are more common. Many of these injuries are rare in other breeds. The following are two examples of common injuries to racing greyhounds. Fractures of the accessory carpal bone in the paw of a racing greyhound are relatively common due to the stresses of racing. The injury, which more commonly affects the right leg, is due to hyperextension of the carpus (the 'wrist' of the leg) at speed. Another example is metacarpal-metatarsal fractures to the paw which occur in a young dog that runs a very fast race or in an unfit dog that starts racing prematurely.<sup>57</sup> Prior to the banning of live greyhound racing in Massachusetts by citizen initiative in 2008, the Massachusetts Legislature enacted injury reporting legislation codified at ch. 128C, s. 7A, Massachusetts General Laws. In analyzing the injury reports, Grey2K USA, a national greyhound protection organization, found that for 2002-2004, over 74 percent of reported greyhound injuries were fractures.<sup>58</sup>

According to Grey2K USA, seven states have live greyhound racing. Those states are Alabama, Arizona, Arkansas, Florida, Iowa, Texas, and West Virginia.<sup>59</sup>

Examples of racing greyhound injury reports in use in Florida are shown in a publication issued by Grey2K USA.<sup>60</sup> The information provided in a 2011 Daytona Beach Kennel Club injury report (due no later than 24 hours after an injury occurs),<sup>61</sup> includes the type of injury, its location on the greyhound's body, and the treatment provided to the greyhound:

- Injury type (e.g., fracture, dislocation, sprain, muscle tear/sore, laceration/cut);
- Area injured (e.g., left hind leg) and bone/joint injured (e.g., toe, shoulder); and

<sup>54</sup> See Rule 61D-2.023(3)(k), F.A.C., which became effective May 21, 2013. According to the department, 192 reports of greyhound deaths were filed with the division between May 31, 2013 and December 31, 2014.

<sup>55</sup> See Rules 61D-2.023(4) and (6), F.A.C.

<sup>56</sup> Section 550.2415(9), F.S. also provides that postmortem examinations may be made of any animal that dies while housed at a permitted racetrack, association compound, or licensed kennel or farm.

<sup>57</sup> See University of Pennsylvania School of Veterinary Medicine Computer Aided Learning Program course supplement at [http://cal.vet.upenn.edu/projects/saortho/chapter\\_35/35mast.htm](http://cal.vet.upenn.edu/projects/saortho/chapter_35/35mast.htm) (last visited Jan. 19, 2015). See also Benjamin G. J. Wernham, BVSc and James K. Roush, DVM, MS, DACVS, *Metacarpal and Metatarsal Fractures in Dogs*, Compendium: Continuing Education for Veterinarians®, Vetlearn.com, (March 2010), available at [https://s3.amazonaws.com/assets.prod.vetlearn.com/mmah/5f/e8eac1e38940cb8b9aab8e862fa06a/filePV0310\\_wernham\\_CE.pdf](https://s3.amazonaws.com/assets.prod.vetlearn.com/mmah/5f/e8eac1e38940cb8b9aab8e862fa06a/filePV0310_wernham_CE.pdf) (last visited Jan. 19, 2015).

<sup>58</sup> See Injuries in Racing Greyhounds, A Report to the Massachusetts General Court July 2005 [www.grey2kusa.org/pdf/injuryreport.pdf](http://www.grey2kusa.org/pdf/injuryreport.pdf) (last visited Jan. 19, 2015).

<sup>59</sup> See <http://www.grey2kusa.org/action/states.html> (last visited Jan. 19, 2015).

<sup>60</sup> See Greyhound Racing in Florida (December 2011) <http://www.grey2kusa.org/pdf/FLreport.pdf> (last visited Jan. 19, 2015).

<sup>61</sup> *Id.* at p. 31.

- Treatment (e.g., x-rays, surgery, splint, rest, euthanasia).

The information provided in 2011 Flagler Greyhound Track reports is less extensive.<sup>62</sup> The injury reports cited by Grey2K USA appear to be signed by the racetrack veterinarians.

### **License Fees and Taxes Imposed on Greyhound Racing Permitholders**

As required by s. 550.0951, F.S., greyhound racing permitholders must pay an \$80 daily license fee for each live and simulcast race, but the daily license fee for simulcast races may not exceed \$500. Section 550.0951, F.S., provides for taxes on admission charges, live races, simulcast events, intertrack wagers, and intertrack simulcast races, but the tax burden has been greatly reduced by tax credits and exemptions. According to the division, revenue from greyhound racing declined by 11 percent in Fiscal Year 2012-2013, to approximately \$3,300,000,<sup>63</sup> but increased by four percent in Fiscal Year 2013-2014, to approximately \$3,442,000.<sup>64</sup> According to the *Gambling Impact Study* prepared for the Florida Legislature by Spectrum Gaming Group,<sup>65</sup> the estimated regulatory costs to the division related to greyhound racing were \$4.1 million in Fiscal Year 2011-2012, resulting in a \$1 million deficit even without any administrative overhead allocation.

### **Universal Tax Exemption Credit**

As provided in s. 550.09514(1), F.S., all permitholders that conduct a full schedule of live racing in a year are eligible for tax exemptions in the form of a credit that directly reduces their state taxes, in the following amounts:

- \$500,000 annually to each permitholder that conducted a full schedule of live racing in 1995, and “are closest to another state that authorizes greyhound pari-mutuel wagering.” These requirements qualify two permitholders (Washington County Kennel Club (Ebro) and Pensacola Greyhound,<sup>66</sup> and Jefferson County Kennel Club (Monticello); and
- \$360,000 annually to each of the other 17 greyhound permitholders.

If a permitholder cannot use its full tax exemption amount, it may transfer the unused portion of the exemption to another permitholder that has acted as a host track by accepting intertrack wagering.<sup>67</sup> The transfer may occur only once per state fiscal year, and there must be a dollar-for-dollar payment (no discount) by the host track.

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<sup>62</sup> *Id.* at pages 32-34.

<sup>63</sup> See 82nd Annual Report, Fiscal Year 2012-2013, Division of Pari-Mutuel Wagering, at pages 12 and 24, available at <http://www.myfloridalicense.com/dbpr/pmw/documents/AR/AnnualReport2012-2013--82nd--2014-01-24.pdf> (last visited April 10, 2015).

<sup>64</sup> See 83rd Annual Report, Fiscal Year 2013-2014, Division of Pari-Mutuel Wagering, at pages 12 and 25, available at <http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2013-2014--83rd--20150114.pdf> (last visited April 10, 2015).

<sup>65</sup> See *Gambling Impact Study*, Spectrum Gaming Group, dated October 28, 2013, available at [http://www.leg.state.fl.us/gamingstudy/docs/FGIS\\_Spectrum\\_28Oct2013.pdf](http://www.leg.state.fl.us/gamingstudy/docs/FGIS_Spectrum_28Oct2013.pdf) (Last visited April 10, 2015).

<sup>66</sup> See note 49 *supra* regarding the operations of Jefferson County Kennel Club (Monticello), which has previously qualified for a \$500,000 tax exemption.

<sup>67</sup> Section 550.0951(1)(b), F.S.

### **Tax Exemption Credit for Daily License Fees**

Each permitholder receives a tax credit based on the number of live races conducted in the previous year, multiplied by the daily license fee.<sup>68</sup> This works out to a 100 percent refund of daily license fees for every live race conducted. The daily license credit also may be transferred for payment in full by a host track to a transferring permitholder.

### **Tax Exemption Credit for Escheated Winnings**

Section 550.1645, F.S., provides that after one year, the winnings from all unclaimed pari-mutuel tickets become property of the state. Permitholders must pay the unclaimed (escheated) winnings to the state. The funds are deposited into the State School Fund and are used for the maintenance of public free schools. Section 550.1647, F.S., provides that permitholders who pay escheated winnings to the state are entitled to a 100 percent credit equal to the escheated winnings payment, to be credited in the next fiscal year against greyhound racing taxes; however, the permitholder must be an amount equal to 10 percent of the escheat credit to qualified greyhound adoption programs.

### **Tax Rates**

The stated tax rates on greyhound racing vary considerably. Section 550.0951(3), F.S., specifies rates of 5.5 percent, 7.6 percent, 3.9 percent, and 0.5 percent of handle that depend on the type of wager (and the location of the tracks involved in any intertrack wagering).

Section 550.0951(3), F.S., provides that intertrack wagering is taxed at the rate of 7.1 percent if the host track is a jai alai fronton. The rate drops significantly to a rate of .5 percent (one-half of a percent) if (1) both the host and guest tracks are thoroughbred permitholders, or (2) a guest track is located more than 25 miles away from the host track and within 25 miles of a thoroughbred permitholder currently conducting live racing.

### **Greyhound Permitholders and Cardroom Licenses**

Section s. 849.086, F.S., provides that a licensed pari-mutuel permitholder that holds a valid pari-mutuel permit and license to conduct a full schedule of greyhound performances may obtain a cardroom license. As a result of the so-called “90 percent rule,” the required minimum of live performances varies greatly among greyhound permitholders.<sup>69</sup>

### **Greyhound Permitholders and Slot Machine Licenses**

Section 551.104(4), F.S., outlines licensing requirements related to slot machine gaming, which is authorized only in Miami-Dade and Broward counties.<sup>70</sup> A greyhound permitholder that is also

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<sup>68</sup> See Section 550.0951(1)(a), F.S.

<sup>69</sup> The number of performances varies, from approximately 100 to nearly 400.

<sup>70</sup> See s. 551.101, F.S., and FLA. CONST. art. X, s. 23.

a slot machine licensee must conduct at least a full schedule of live racing or games as defined in Section 551.002(11), F.S.

### **III. Effect of Proposed Changes:**

**Section 1** of the bill provides that the existing Gaming Compact between the Seminole Tribe of Florida (Tribe) and the State of Florida, which provides that the Tribe may conduct banked card games such as blackjack and baccarat at five of its seven gaming facilities, may be amended to authorize banked card games on the same terms, until July 31, 2016. After that date, banked card games may no longer be conducted by the Tribe.

The bill also provides that the Gaming Compact may also be amended to exempt authorized slot machine gaming from the existing authorization granted to the Tribe for slot machine gaming. Currently, the Tribe has exclusive authority to offer slot machine gaming everywhere in the state except in Broward and Miami-Dade Counties; in those counties, the Tribe's authority to offer slot machine gaming is shared with eight pari-mutuel facilities that are authorized under state law to offer slot machine gaming.

If the Gaming Compact is amended to exempt slot machine gaming, then pursuant to amendments to s. 551.102(4), F.S.,<sup>71</sup> certain pari-mutuel facilities may become qualified as facilities eligible to be licensed as slot machine licensees. To qualify, a pari-mutuel facility must:

- Be located in a county in which a majority of voters in a countywide referendum held at the same time as a general election including the offices of President and Vice President of the United States were on the ballot;
- Have conducted at least 250 live performances at the pari-mutuel facility in conformity with the permitholder's annual operating license for 25 consecutive years immediately preceding its initial application for a slot machine license;
- Pay the required license fee; and
- Meet all other requirements of ch. 551, F.S., respecting slot machines.

According to the department, Palm Beach Kennel Club and Naples/Ft. Myers Greyhound Track would be eligible. Unless the Gaming Compact is amended to exempt slot machine gaming conducted by slot machine licensees from the exclusive authorization previously granted to the Tribe, no additional licenses to conduct slot machine gaming may be granted by the Department of Business and Professional Regulation.

The Governor is authorized and directed to execute an amendment to the Gaming Compact respecting the banked card games and slot machine gaming issues, on the same terms and conditions in the Gaming Compact, without further revision, and to seek approval of the amendment from the United States Secretary of the Interior, as required by federal law. Legislative ratification of the amendment is not required, if the amendment to the Gaming Compact strictly conforms to the requirements in the bill.

If the Gaming Compact is amended to exempt slot machine gaming, the revenue sharing with the Tribe would be reduced by 90 percent of the revenue the State receives from the new slot

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<sup>71</sup> See sections 16, 17, 18, and 19 of the bill.

machine gaming licensees, and 10 percent of the revenue must be paid by the Division of Pari-mutuel Wagering to thoroughbred tracks that do not have slot machines, to supplement thoroughbred purses (prizes for winning races). If more than one thoroughbred track qualifies for an allocation, the purses portion of the revenue must be split equally among them. The department indicated that Tampa Bay Downs and possibly Ocala Thoroughbred Racing if it begins to operate, may qualify.

**Section 2** revises s. 550.01215, F.S., to modify the type of annual operating license to be filed for by a pari-mutuel permitholder.<sup>72</sup> In existing law, applications are filed to conduct “performances”<sup>73</sup> during the next state fiscal year, but pari-mutuel permitholders will now file applications to conduct “pari-mutuel wagering, including intertrack and simulcast races wagering for those greyhound permitholders that do not conduct live performances.” In order to address any revisions to their schedules of live performances, greyhound permitholders are authorized to amend their annual operating licenses for the 2015-2016 fiscal year through August 31, 2015. (For fiscal year 2014-2015, the amendment deadline was March 15, 2015.)

Greyhound permitholders may reduce the number of performances to be conducted, cease live racing, and if they are properly licensed, may:

- Accept wagers on pari-mutuel races broadcast from a host track (intertrack or simulcast wagering);
- Operate a cardroom; and
- Operate slot machines if licensed in Miami-Dade or Broward County.

Elimination of the existing requirement that greyhound permitholders conduct live performances of greyhound racing is accomplished by deleting references to live racing, or by differentiating greyhound racing from other types of pari-mutuel racing.

**Section 3** revises s. 550.0351, F.S., regarding charity racing days, to eliminate the use of tracks for charity or scholarship days, or to use their facilities for “hound dog derbies.” In these events, races are run between non-racing dogs, where adult and minors participate as owners of those dogs or as spectators, and where no betting or use of alcoholic beverages is allowed.

**Section 4** deletes the requirement in s. 550.054(14)(b), F.S., that a full schedule of live racing be conducted each year by those permitholders whose permit was converted from a jai alai permit to a greyhound racing permit in order to maintain eligibility for tax credits.

**Section 5** amends s. 550.0951, F.S., to eliminate the daily license fee paid by greyhound permitholders, which is \$80 for each live or simulcast race. It also eliminates the tax credit for daily license fees, and deletes a reference to the transferable annual tax exemption in s. 550.09514(1), F.S., which is eliminated in **Section 6**.

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<sup>72</sup> Only permitholders may apply for operating licenses; applications for permits to conduct pari-mutuel wagering are addressed in s. 550.054, F.S.

<sup>73</sup> Section 550.002(25), F.S., defines “performance” as a series of events, races, or games performed consecutively under a single admission charge.

Charges to enter pari-mutuel grandstands or tracks are rarely imposed, but there is a minimal admission tax of 10 cents payable even when free admission to a track or fronton is granted. This charge in s. 550.0851(2), F.S. is deleted.

The tax on funds that are wagered on greyhound racing is revised to the flat rate of 1.28 percent for all live, intertrack, and simulcast wagering. Currently, tax rates on greyhound racing vary considerably. Section 550.0951(3), F.S., specifies rates of 5.5 percent, 7.6 percent, 3.9 percent, and 0.5 percent of handle that depend on the type of wager and the location of the tracks involved in any intertrack wagering.

**Section 5** also revises s. 550.0951(3)(c)1., F.S., to provide that taxes on intertrack wagering when the host track is a dog track, are to be paid to the state by the guest track, instead of the host track.

The bill deletes the tax on intertrack wagers accepted at greyhound tracks “located in an area of the state in which there are only three permitholders, all of which are greyhound permitholders, located in three contiguous counties.” These are the greyhound permitholders in Clay, Duval, and St. Johns Counties. The tax rate is 3.9 percent if the host track is a greyhound track located in those counties or a greyhound track located Miami-Dade or Broward Counties.<sup>74</sup>

The bill provides further that if a host facility also holds a jai alai permit, the tax rate on handle for intertrack wagers is 6.1 percent until the permitholder pays tax on intertrack wagers equivalent to those amount paid in Fiscal Year 1992-1993; thereafter, the rate is 2.3 percent.<sup>75</sup>

**Section 6** eliminates the transferable annual tax exemptions to greyhound permitholders established in s. 550.09514(1), F.S. in the amount of \$500,000 each for the 3 permitholders in the Panhandle, and \$360,000 each for the 17 other permitholders.

There are no minimum purse requirements for greyhound permitholders who do not conduct live racing.<sup>76</sup>

Section 550.09514(1)(b), F.S., is further amended to reduce the “additional” purse requirement. Current law provides for “additional” minimum purses in an amount equal to 75 percent of the all daily license fees (on live and simulcast races) paid in fiscal year 1994-1995. The bill reduces this amount to \$60 times the number of live races conducted by the greyhound permitholder in the preceding fiscal year.

The bill also deletes language about the weekly disbursement of purse supplements.

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<sup>74</sup> The deleted provisions reference greyhound tracks located in the market area designated in s. 550.615(6), F.S. This area is “in any area of the state where there are three or more horserace permitholders within 25 miles of each other” which includes Hialeah Racetrack (Quarter Horse), Calder and Gulfstream Racetracks (Thoroughbred), and Pompano Park (Harness).

<sup>75</sup> See s. 550.0951(3)(c)2., F.S.

<sup>76</sup> Section 550.002(27), F.S., defines “purse” as the cash portion of prizes on a race. Section 550.09514(2)(a), F.S., sets the minimum purse requirement for each greyhound racing permitholder based on the purses paid on live handle in fiscal year 1993-1994 divided by the live handle that same year.

**Section 7** amends s. 550.1625(2), F.S., regarding dogracing taxes to delete references to the daily license fee, the admission tax, and the breaks tax.<sup>77</sup> The deletion as to the breaks tax is conforming, as the obligation to pay the breaks tax imposed on dogracing in s. 550.0951(4), F.S., was repealed in 1996.<sup>78</sup>

**Section 8** deletes s. 550.1647, F.S., to eliminate the “escheats” tax credit for greyhound permitholders and to move some provisions relating to greyhound adoptions to s. 550.1648, F.S.,<sup>79</sup> as set forth in **Section 9**. Currently, 10 percent of the tax credit is required to be paid by the permitholders to organizations that promote or encourage adoption of greyhounds, but that funding is eliminated by the bill. Further, the authorization in s. 550.1648(2), F.S., for funding a greyhound adoption program by holding a charity racing day designated as “Greyhound Adopt-A-Pet Day,” is also deleted.

**Section 9** provides for greyhound adoptions only at dogracing facilities conducting live races. It defines a greyhound adoption organization and provides that the greyhounds adopted must be sterilized. It deletes the funding for greyhound adoptions through charity racing days.

**Section 10** creates s. 550.2416, F.S., relating to reporting of racing greyhound injuries. The bill requires that an injury to a racing greyhound be reported to the Division of Pari-mutuel Wagering within 7 days after the injury occurred or is believed to have occurred (e.g. where the time the injury occurred is uncertain, such as injuries discovered since the last daily inspection of the racing greyhound, or upon the arrival of the greyhound at a kennel if transported) by:

- A racetrack veterinarian, if the injury occurred at the racetrack; or
- An owner, trainer or kennel operator with knowledge of the injury, if the injury occurred at a location other than the racetrack or during transportation.

The bill requires reporting of the following information about an injury:

- Specific identification of the injured greyhound (name, tattoos, microchip information), with contact information for the greyhound’s owner, trainer, and kennel operator; and
- The type and location of the injury, its cause, and estimated recovery time.

Further, if the injury occurs during a race, an injury report must state:

- The name of the racetrack and the time injury occurred;
- The distance, grade, race, and post position of the injured greyhound; and
- The weather and track conditions at the time of the injury.

If the injury occurs when the greyhound is not racing, an injury report must state the location where the injury occurred and the circumstances.

The bill provides that injury reports are public records that must be maintained by the division for 7 years.

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<sup>77</sup> The “breaks” is that part of a wagering pool created by rounding.

<sup>78</sup> See s. 4 of 96-364, L.O.F., which amended s. 550.0951(4), F.S.

<sup>79</sup> The bill retains provisions in current law regarding adoption organizations and adoption requirements.

Racing greyhound injury reports must be sworn to under penalty of perjury.<sup>80</sup> In addition, false statements in an injury report by a veterinarian, owner, trainer, or kennel operator may result in discipline of that licensee by the division as permitted by the provisions of chapter 550 (Pari-mutuel Wagering, chapter 455 (Business and Professional Regulation: General Provisions) or chapter 474 (Veterinary Medical Practice).

The bill does not apply to injuries to a service animal, personal pet, or greyhound that has been adopted as a pet.

**Section 11** provides an appropriation to implement the greyhound injury reporting mandated by the bill. For 2015-2016, \$ 57,132 in recurring funds and \$,5385 in nonrecurring funds from the Pari-mutuel Wagering Trust Fund are appropriated to the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation; a full-time equivalent position is also authorized.

**Sections 12 and 15** correct cross references in s. 550.26165, F.S., regarding horse racing breeders' awards, and s. 550.63015, F.S., regarding intertrack wagering.

**Section 13** amends s. 550.3551(6), F.S., regarding simulcast races, to require that greyhound permitholders that do not conduct a full schedule of live races (at least 100 evening or matinee live races annually), must accept wagering on all in-state greyhound races available to the permitholder and display and promote all in-state broadcasts it receives and wagers on, in the same manner as all other races or games. Also deleted is a 20 percent limit on the number of races from out-of-state locations that certain greyhound permitholders may receive. The provision refers to s. 550.615(5), F.S., which was declared to be an unconstitutional special law by the Florida Supreme Court in 2007.<sup>81</sup>

**Section 14** amends s. 550.615, F.S., concerning intertrack wagering. Intertrack wagers are made at a guest track on events broadcast from one track to another in Florida, of either live races from the host track, or of live events occurring out of state. A greyhound permitholder is qualified to participate in intertrack wagering if the permitholder:

- Has conducted a full schedule of live racing or games in the preceding year;
- Has held an annual operating license in each of the preceding 10 years; or
- Holds a permit that was converted from a jai alai permit to a greyhound permit pursuant to s. 550.054(14), F.S.

The provisions of s. 550.615(7), F.S. are deleted. Current law limits the taking of intertrack wagers by requiring consent of other permitholders, depending on whether the permitholders in the same county are conducting live racing or not. These limitations are only effective in those counties where only two permits have been issued (one for greyhound racing and one for jai alai).

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<sup>80</sup> Section 837.012, F.S., provides that makers of false statements under oath in regard to any material matter (such as those made in an injury reporting form) which he or she does not believe to be true, are guilty of a first degree misdemeanor and may be sentenced to a term of imprisonment up to one year and required to pay a fine not to exceed \$1,000).

<sup>81</sup> See *Florida Dept. of Business and Prof. Regulation v. Gulfstream Park Racing Ass'n, Inc.*, 967 So.2d. 802 (Fla. 2007).

The provisions of s. 550.615(8), F.S., modify requirements for conducting intertrack wagering, which may be conducted throughout the year by a greyhound permitholder at its own facility, even if it leases another greyhound permitholder's track for its races. Current law allows wagering to occur at a greyhound permitholder's facilities if it conducts a full schedule of live racing at the leased location each year, and the 2 locations are within 35 miles of each other.<sup>82</sup> This authorization is valid only in the 3 adjacent counties of the state where there are three permitholders, all of which are greyhound permitholders (Clay, Duval, and St. John's Counties).

The bill authorizes every greyhound permitholder throughout the state to lease another greyhound facility located within 35 miles of its existing facility, without a requirement for any live racing, and authorizes the continuation of all intertrack wagering at the permitholder's own facility.

The bill creates s. 550.615(10), F.S., regarding the funds payable to a greyhound permitholder that is not licensed to conduct a full schedule of live racing during the year, but is a guest track. Such a permitholder must be paid 16 percent of its contributions to pari-mutuel wagering pools at a greyhound permitholder host track.

**Section 15** deletes cross references to a law that was repealed in 2000.<sup>83</sup>

**Section 16** amends s. 551.101, F.S., to delete the requirement that pari-mutuel facilities located in Broward and Miami-Dade Counties at the time of the adoption of s. 23, Art. X of the State constitution and that have conducted live races or games during the 2002 and 2003 calendar years are authorized to conduct slot machine gaming. It provides that the facilities that comply with ch. 551, F.S., are authorized to conduct slot machine gaming.

Currently, Broward and Miami-Dade Counties are the only counties where slot machine gaming at pari-mutuel locations is authorized in Florida, and in those counties, two greyhound permitholders are licensed for slot machines:

- Flagler Dog Track & Magic City Casino in Miami Beach, and
- Mardi Gras Casino and Racetrack in Hallandale Beach.<sup>84</sup>

**Section 17** amends the eligible facility definition in s. 551.102(4), F.S., to provide that certain pari-mutuel facilities may become qualified as facilities eligible to be licensed as slot machine licensees. To qualify, a pari-mutuel facility must:

- Be located in a county in which a majority of voters in a countywide referendum held at the same time as a general election including the offices of President and Vice President of the United States were on the ballot;
- Have conducted at least 250 live performances at the pari-mutuel facility in conformity with the permitholder's annual operating license for 25 consecutive years immediately preceding its initial application for a slot machine license;

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<sup>82</sup> Section 550.475, F.S., mandates the required proximity of 35 miles.

<sup>83</sup> Section 550.615(9), F.S., was repealed by s. 44 of ch. 2000-354, L.O.F., requiring re-numbering of other sections.

<sup>84</sup> See Pari-Mutuel Wagering Permitholders With 2014-2015 Operating Licenses map at

<http://www.myfloridalicense.com/dbpr/pmw/documents/MAP-Permitholders--WITH--2014-2015-OperatingLicenses--2014-11-24.pdf> (last visited April 10, 2015).

- Pay the required license fee; and
- Meet all other requirements of ch. 551, F.S., respecting slot machines.

However, unless the Gaming Compact is amended to exempt slot machine gaming conducted by slot machine licensees from the exclusive authorization previously granted to the Tribe, no additional licenses to conduct slot machine gaming may be granted by the Department of Business and Professional Regulation.

**Section 18** amends s. 551.104, F.S., to provide a slot machine applicant may be approved by the division after a county referendum authorizing slot machine gaming in compliance with ch. 551, F.S. It eliminates the requirement that live racing be conducted by a greyhound permitholder in order to maintain a slot machine license.

**Section 19** amends s. 551.114, F.S., and expands the areas for slot machine gaming in pari-mutuel wagering facilities “for greyhound permitholders, the location where live races were conducted as of the permitholder’s initial date of slot machine licensure.”<sup>85</sup> Two greyhound permitholders have slot machine licenses and are conducting live racing: Flagler Dog Track & Magic City Casino in Miami Beach, and Mardi Gras Casino and Racetrack in Hallandale Beach.

**Section 20** amends the requirements for greyhound permitholders operating licensed cardrooms.<sup>86</sup> Whether live racing is conducted or not by a greyhound permitholder, a cardroom license (and future renewals) must be issued if the permitholder:

- Has conducted live racing during each of the 10 years immediately preceding its application for a cardroom license; or
- Holds a permit that was converted from a jai alai permit to a greyhound permit pursuant to s. 550.054(14), F.S.

No minimum number of live performances need be requested or conducted in order to “receive, maintain, or renew” a license to operate a cardroom. If broadcasts of live greyhound racing are available from other tracks in Florida, greyhound permitholders must provide intertrack wagering on each day the cardroom operates, as a condition of their cardroom license.<sup>87</sup>

It maintains the 4 percent purse supplements only for greyhound permitholders conducting live races.

**Section 21** provides that if any slot machine licensee discontinues live racing or games, all slot machine licensees may do so. This means that in addition to greyhound racing permitholders, all other pari-mutuel permitholders (harness, thoroughbred, jai alai) will no longer be required to conduct live races or games, and may maintain slot machine gaming facilities without pari-mutuel wagering.

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<sup>85</sup> Section 551.114, F.S., currently provides that slot machine gaming areas must be (1) within the current live gaming facility or (2) in a new or existing building contiguous and connected to the live gaming facility.

<sup>86</sup> Section 849.086(2)(c), F.S., defines “cardroom” to mean a facility where authorized card 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.

<sup>87</sup> As discussed in the analysis of Section 14 above, intertrack wagers are made at a guest track on events broadcast from one track to another in Florida, of either live races from the host track, or of events occurring live outside of 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:

The Florida Revenue Estimating Conference is scheduled to review the financial impact to the State of the elimination of live racing and the loss of associated taxes and fees, on April 10, 2015.

B. Private Sector Impact:

If an amendment to the Gaming Compact is executed by the Seminole Tribe and the State, the existing exclusive authorization to the Seminole Tribe of Florida to offer banking and banked card games (table games) at five of its seven tribal gaming facilities will remain in effect through July 31, 2016 (the extended authorization period). During the extended authorization period, the Seminole Tribe will continue to be obligated to share revenue with the State of Florida using a calculation that will include the net win revenue from the Tribe's casinos in Broward County.

An amendment to the Gaming Compact that will modify the existing authorization granted to the Seminole Tribe of Florida to offer slot machine gaming in the State, with only limited competition from eight pari-mutuel facilities in Broward and Miami-Dade Counties, may address other terms of the Gaming Compact and the revenues payable thereunder.

C. Government Sector Impact:

If an amendment to the Gaming Compact is executed by the Seminole Tribe and the State, the existing exclusive authorization to the Seminole Tribe of Florida to offer banking and banked card games (table games) at five of its seven tribal gaming facilities will remain in effect through July 31, 2016 (the extended authorization period). During the extended authorization period, the Seminole Tribe will continue to be obligated to

share revenue with the State of Florida using a calculation that will include the net win revenue from the Tribe's three casinos in Broward County.

According to the Legislature's Office of Economic and Demographic Research, this will impact annual general revenue by approximately \$136.6 million.<sup>88</sup> There will also be an impact upon those counties and municipalities that receive local government share distributions from the revenue sharing payments made by the Seminole Tribe for the benefit of the exclusivity provisions in the Gaming Compact.

An amendment to the Gaming Compact that will modify the existing authorization granted to the Seminole Tribe of Florida to offer slot machine gaming in the State, with only limited competition from eight pari-mutuel facilities in Broward and Miami-Dade Counties, may address other terms of the Gaming Compact and the revenues payable thereunder.

The Florida Revenue Estimating Conference is scheduled to review the financial impact to the State of the elimination of live racing and the loss of associated taxes and fees, on April 10, 2015.

SPB 7088 provides in **Section 11** an appropriation to implement the greyhound injury reporting mandated by the bill. For 2015-2016, \$ 57,132 in recurring funds and \$,5385 in nonrecurring funds from the Pari-mutuel Wagering Trust Fund are appropriated to the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation; a full-time equivalent position is also authorized.

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

The number of racing greyhounds in the state will be impacted by the elimination of the live racing requirement, and may result in a glut of racing greyhounds that are no longer needed by the racing industry. This may further impact the ability to place retired greyhounds for adoption. The timing and impact of such reduction has been the subject of dispute among permitholders, owners, and interested parties.

Subsection (6) of s. 550.615, F.S., regarding intertrack wagering limitations, was declared by the Florida Supreme Court to be an unconstitutional special law, in *Florida Dept. of Business and Prof. Regulation v. Gulfstream Park Racing Ass'n, Inc.*, 967 So.2d. 802 (Fla. 2007). Accordingly, that statutory provision, and the references to it throughout ch. 550, F.S., should be deleted.

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<sup>88</sup> See *Gaming: Revenue Overview* [http://edr.state.fl.us/Content/presentations/gaming/GamingRevenueOverview\\_3-26-15.pdf](http://edr.state.fl.us/Content/presentations/gaming/GamingRevenueOverview_3-26-15.pdf) (March 26, 2015) at page 11 (last visited April 10, 2015).

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 285.710, 550.01215, 550.0351, 550.054, 550.0951, 550.09514, 550.1625, 550.1647, 550.1648, 550.26165, 550.3551, 550.615, 550.6305, 551.101, 551.102, 551.104, 551.114, and 849.086.

This bill creates section 550.2416, of the Florida Statutes.

This bill creates two unnumbered sections of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

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

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