

1 A bill to be entitled
2 An act relating to sports wagering; creating ch. 547,
3 F.S.; providing legislative findings and intent;
4 providing definitions; authorizing certain persons to
5 place wagers on a sports event under certain
6 circumstances; providing duties and responsibilities
7 of the Division of Pari-mutuel Wagering of the
8 Department of Business and Professional Regulation
9 relating to sports pools; requiring the division to
10 adopt rules; authorizing persons to apply to the
11 division for a license to operate a sports pool;
12 specifying entities to which the division may issue a
13 license; providing requirements for such application;
14 requiring licensees to annually renew their licenses;
15 prohibiting sports pools from being offered by anyone
16 other than the division or a licensee; specifying
17 requirements for accepting wagers on sports events;
18 authorizing a licensee to have certain websites and
19 applications under certain circumstances; authorizing
20 the division or licensees to provide certain benefits
21 to induce a person to wager; requiring licensees to
22 perform background checks on all employees and provide
23 certain documentation to the division upon request;
24 providing requirements for initiation, receipt, and
25 transfer of sports wagers; prohibiting certain persons

26 from wagering under certain circumstances; providing
27 applicability; requiring the division and licensees to
28 adopt certain procedures to prevent certain persons
29 from wagering; prohibiting the division and licensees
30 from accepting wagers from certain persons; requiring
31 a licensee to promptly notify the division of certain
32 information; providing for the distribution of
33 unclaimed winnings; providing civil and criminal
34 penalties; requiring that certain penalties be
35 deposited into the Pari-mutuel Wagering Trust Fund of
36 the Department of Business and Professional
37 Regulation; providing a contingent effective date.
38

39 WHEREAS, Section 30, Art. X of the State Constitution,
40 entitled "Voter control of gambling in Florida," grants Florida
41 voters the exclusive right to decide whether to authorize casino
42 gambling in this state, and this constitutional amendment, which
43 became effective November 6, 2018, requires a vote by a
44 citizen's initiative pursuant to s. 3, Art. XI in order for
45 casino gambling to be authorized under the laws of this state,
46 and

47 WHEREAS, "casino gambling," as defined in s. 30, Art. X,
48 means "any of the types of games typically found in casinos and
49 that are within the definition of Class III gaming in the
50 Federal Indian Gaming Regulatory Act, 25 U.S.C. ss. 2701 et seq.

51 ('IGRA'), and in 25 C.F.R. s. 502.4, upon adoption of this
52 amendment, and any that are added to such definition of Class
53 III gaming in the future," and

54 WHEREAS, sports wagering is not a form of gambling that was
55 typically found in casinos as of November 6, 2018; according to
56 data provided by the American Gaming Association, there were 40
57 states in the United States that had legal casino gambling,
58 counting both commercial casinos and tribal casinos, as of
59 November 6, 2018, and of those 40 states, only Nevada, Delaware,
60 New Jersey, Mississippi, West Virginia, and New Mexico had
61 casinos that included sports wagering as an amenity for patrons;
62 and of the more than 500 tribal casinos that were operating on
63 November 6, 2018, only three offered sports wagering, and

64 WHEREAS, there are several fundamental distinctions between
65 sports wagering and casino gambling: first, the location of the
66 underlying contests distinguishes the two activities; in sports
67 wagering, the athletic competitions or sports events on which
68 the bets or wagers are placed usually occur and are decided at
69 locations beyond a casino's four walls; and by contrast, casino
70 games, such as banked card games, dice games, and slot machines,
71 are played, and their outcomes are determined, within the four
72 walls of a casino; see Boardwalk Bros. v. Satz, 949 F. Supp. 2d
73 1221, 1230 (S.D. Fla. 2013) ("'Casino-style games' refers to the
74 types of games that are commonly played in a casino."), and

75 WHEREAS, in addition, wagering on a sports event involves

76 | substantial skill, including the exercise of a bettor's judgment
77 | in attempting to select the winners or losers of a contest by
78 | employing his or her knowledge of team records, players' past
79 | performance data, past head-to-head data, injury reports,
80 | facility conditions, weather conditions, and a myriad of other
81 | factors that may influence the outcome of the event;
82 | furthermore, statistics and other materials pertinent to sports
83 | events are readily available for those who wish to study them
84 | and then place an informed bet using reason and judgment;
85 | therefore, drawing upon this array of information, the person
86 | making the bet is using his or her knowledge about the sporting
87 | activity in order to enhance his or her chance of winning, and
88 | WHEREAS, by contrast, casino-style games, such as those
89 | included within the definition of "casino gambling" in s. 30,
90 | Art. X of the State Constitution, are classified as "games of
91 | chance" under most states' laws, including Florida law, because
92 | the element of chance or luck predominates over skill; see, for
93 | example, In re Advisory Opinion to the Governor, 856 A.2d 320,
94 | 329 (R.I. 2004), recognizing that "chance is the dominant
95 | factor" in casino games such as roulette, blackjack, craps,
96 | poker, and slot machines; Nez Pierce Tribe v. Cenarrusa, 125
97 | Idaho 37, 42, 867 P.2d 911, 916 (1993), referring to blackjack,
98 | craps, roulette, poker, baccarat, keno, and slot machines as
99 | games involving "pure chance"; Score Family Fun Ctr., Inc. v.
100 | Cty. of San Diego, 225 Cal.App.3d 1217, 1223 (Ct. App. 4th Dist.

101 1990), stating, "[W]e note that there are a number of cases
102 holding poker and other casino games are predominantly games of
103 chance particularly when played against a machine"; and State v.
104 Eisen, 192 S.E.2d 613, 616 (N.C. Ct. App. 1972), stating, "In
105 the game of blackjack..., we think the element of chance clearly
106 dominates the element of skill..., " and

107 WHEREAS, federal law also differentiates sports wagering
108 from casino gambling; for example, the federal regulations
109 governing gambling on Indian lands, which are part of the Indian
110 Gaming Regulatory Act (IGRA), treat sports wagering as a
111 separate and distinct form of "Class III" gaming, mentioning it
112 in a different subparagraph than house-banked card games, casino
113 games such as roulette, craps, and keno, and slot machines; in
114 addition, the federal Wire Act, which generally prohibits bets
115 or wagers from being placed across state lines, applies only to
116 bets or wagers placed on sports events and does not apply to
117 other forms of gambling such as casino gambling; and to similar
118 effect, the federal excise tax on wagering applies to wagers
119 placed on sports events, but "casino-style" games, including
120 slot machines, banked card games, dice games, and roulette, are
121 specifically exempted from the application of the tax, and

122 WHEREAS, gambling studies commissioned by the Federal
123 Government likewise distinguish between sports wagering and
124 casino gambling; and the 1999 Final Report of the National
125 Gambling Impact Study Commission (NGISC), which was established

126 | by Congress to "conduct a comprehensive legal and factual study
 127 | of the social and economic implications of gambling in the
 128 | United States," characterized the gambling industry as being
 129 | "composed of relatively discrete segments," specifying "casinos
 130 | (commercial and tribal)" and "sports wagering" as separate and
 131 | distinct categories of gambling, and

132 | WHEREAS, a gambling study commissioned by the Legislature
 133 | in 2013 similarly recognized that casino gambling and sports
 134 | wagering are separate and distinct categories of gambling; see
 135 | Spectrum Gaming Group, Gambling Impact Study: Part I Section A,
 136 | Assessment of the Florida Gaming Industry and its Economic
 137 | Effects, pp. 29-30 and 32-33, prepared for the Legislature on
 138 | October 28, 2013, describing the different types of gambling in
 139 | the United States, NOW, THEREFORE,

140 |
 141 | Be It Enacted by the Legislature of the State of Florida:

142 |
 143 | Section 1. Chapter 547, Florida Statutes, consisting of
 144 | sections 547.0001, 547.001, 547.002, 547.003, 547.004, 547.005,
 145 | 547.006, 547.007, and 547.008, is created to read:

146 | CHAPTER 547

147 | SPORTS WAGERING

148 | 547.0001 Legislative findings and intent.—The Legislature
 149 | finds and declares that the sports wagering activities
 150 | authorized by this chapter do not constitute "casino gambling"

151 as defined in s. 30, Art. X of the State Constitution.

152 547.001 Definitions.—As used in this chapter, the term:

153 (1) "Collegiate sports or athletic event" means a sports
154 or athletic event offered or sponsored by or played in
155 connection with a public or private institution that offers
156 educational services beyond the secondary level.

157 (2) "Division" means the Division of Pari-mutuel Wagering
158 of the Department of Business and Professional Regulation.

159 (3) "Licensee" means an entity that holds a license issued
160 by the division to operate an online sports pool.

161 (4) "Professional sports or athletic event" means an event
162 at which two or more persons participate in sports or athletic
163 events and receive compensation in excess of actual expenses for
164 their participation in such event.

165 (5) "Professional sports venue" means a permanent physical
166 location that houses a full-time professional sports franchise
167 or a recurring annual event of the National Football League,
168 Major League Baseball, the PGA Tour, the Professional Golfers'
169 Association of America, the Ladies Professional Golf
170 Association, the National Hockey League, Major League Soccer,
171 the National Basketball Association, the Women's National
172 Basketball Association, the Indoor Football League, the National
173 Lacrosse League, or Major League Lacrosse.

174 (6) "Sports event" means any professional sports or
175 athletic event, any Olympic or international sports competition

176 event, and any collegiate sports or athletic event, or any
177 portion thereof, including, but not limited to, the individual
178 performance statistics of athletes in a sports event or
179 combination of sports events. The term does not include a high
180 school or youth sports event.

181 (7) "Sports pool" means the business of accepting wagers
182 on any sports event by any system or method of wagering other
183 than pari-mutuel, as defined in s. 550.002, including, but not
184 limited to, single-game bets, teaser bets, parlays, over-under,
185 moneyline, pools, proposition bets, exchange wagering, in-game
186 wagering, in-play bets, and straight bets.

187 547.002 Sports wagering authorized.—Notwithstanding any
188 other law, a person who is 21 years of age or older may wager
189 money or any other thing of value on a sports event if the wager
190 is placed with the division or a licensee and the person is
191 physically present in this state.

192 547.003 Authority of division.—The division shall
193 administer this chapter and regulate the operation of sports
194 pools under this chapter and the rules adopted pursuant thereto
195 and shall:

196 (1) Adopt rules to implement this chapter, including, but
197 not limited to, rules:

198 (a) Requiring a licensee to maintain a specified amount of
199 cash reserves.

200 (b) Relating to the acceptance of wagers on a series of

201 sports events.

202 (c) Setting a limit on the maximum wager that a person may

203 place on a single sports event.

204 (d) Regulating the method of accounting licensees must use

205 and what records must be kept.

206 (e) Regulating the use of credit and checks by persons

207 wagering.

208 (f) Requiring protections for persons wagering.

209 (g) Requiring licensees to provide patrons with warnings

210 about gambling addiction and information on where to get help.

211 (h) Regulating the locations and use of self-service

212 betting kiosks.

213 (2) Conduct investigations and monitor the operation of

214 sports pools.

215 (3) Review the books, accounts, and records of any current

216 or former licensee.

217 (4) Suspend or revoke any license issued under this

218 chapter, after a hearing, for any violation of this chapter or

219 the administrative rules adopted pursuant thereto.

220 (5) Take testimony, issue summons and subpoenas for any

221 witness, and issue subpoenas duces tecum in connection with any

222 matter within its jurisdiction.

223 547.004 Sports wagering licenses.—

224 (1) A person may apply to the division for a license to

225 operate a retail in-person sports pool or an online sports pool.

226 The division may issue a license to:

227 (a) A pari-mutuel facility licensed by the Department of
 228 Business and Professional Regulation.

229 (b) An existing tribal organization casino property.

230 (c) A professional sports venue.

231 (2) All applications submitted pursuant to this section
 232 must be on a form prescribed by the division and adopted by
 233 rule.

234 (3) A licensee must annually renew a license issued under
 235 this section.

236 547.005 Sports pools.-

237 (1) A sports pool may not be offered by a person other
 238 than the division or a licensee.

239 (2) A licensee may accept wagers only from persons who are
 240 21 years of age or older and who are wagering through a website
 241 or application offered under subsection (3), and the division
 242 may accept wagers only from persons who are 21 years of age or
 243 older and who are wagering at a self-service kiosk operated by
 244 the division.

245 (3) (a) A licensee may have individually branded websites
 246 for the purposes of offering a sports pool, each of which may
 247 have an accompanying mobile application bearing the same brand
 248 as the website.

249 (b) Until a license is received from the division, an
 250 applicant may not make a website or application available to the

251 public and may not accept wagers unless the wagers are strictly
252 for testing purposes and nothing of value is wagered or
253 exchanged.

254 (4) The division or licensees may provide promotional
255 credits, incentives, bonuses, complimentaries, or similar
256 benefits designed to induce a person to wager.

257 (5) A licensee must perform background checks on all of
258 its employees and must provide any documentation relating to the
259 background checks and a list identifying all of the licensee's
260 employees to the division upon request.

261 (6) A licensee's sports wagering must be initiated and
262 received within the geographic boundaries of this state and may
263 not be intentionally routed outside this state. The incidental
264 intermediate routing of mobile sports wagering shall not
265 determine the location or locations at which a sports wager is
266 initiated, received, or otherwise made. A licensee agent or
267 contractor who sends or receives an electronic sports wager must
268 ensure that the transfer of the sports wager is initiated,
269 received, and completed within this state and that only
270 incidental intermediate routing of the sports wager occurs
271 outside this state.

272 547.006 Prohibitions.—

273 (1) (a) The following persons are prohibited from wagering
274 on a sports event that is overseen by the person's sports
275 governing body based on publicly available information:

276 1. An athlete, a coach, a referee, or a director of a
277 sports governing body or any of such body's member teams.

278 2. A person who is a direct or indirect legal or
279 beneficial owner of 10 percent or greater of a sports governing
280 body or any of such body's member teams.

281 3. A sports governing body or any of such body's member
282 teams.

283 4. A person who holds a position of authority or influence
284 sufficient to exert influence over the participants in a sports
285 event, including, but not limited to, a coach, manager, handler,
286 or trainer.

287 5. A person with access to exclusive information on any
288 sports event overseen by his or her sports governing body.

289 6. A person identified by any lists of prohibited persons
290 provided to the division by a sports governing body. The
291 division must provide licensees with any such list upon receipt.

292 (b) This subsection does not apply to a person who is a
293 direct or indirect owner of a sports governing body member team
294 if the person's shares are registered pursuant to s. 12 of the
295 Securities Exchange Act of 1934 and the value of the ownership
296 of such team represents less than 1 percent of the person's
297 total enterprise value.

298 (2) The division and licensees shall adopt procedures to
299 prevent persons who are prohibited from wagering on sports
300 events under subsection (1) from wagering on sports events.

301 Additionally, the division and licensees may not accept wagers
302 from a person whose identity is known to the division or
303 licensee and who:

304 (a) Is the director, officer, owner, or employee of the
305 division or licensee or a relative of such person living in the
306 same household;

307 (b) Has access to nonpublic confidential information held
308 by the division or licensee; or

309 (c) Is an agent or proxy for another person.

310 (3) A licensee must promptly notify the division of any of
311 the following:

312 (a) A criminal or disciplinary proceeding commenced
313 against the licensee or any of its employees in connection with
314 the operations of a sports pool.

315 (b) Abnormal betting activity or patterns that may
316 indicate a concern about the integrity of a sports event.

317 (c) Conduct that has the potential to corrupt a betting
318 outcome of a sports event for purposes of financial gain,
319 including, but not limited to, match fixing.

320 (d) Suspicious or illegal wagering activities, including,
321 but not limited to, the use of funds derived from illegal
322 activity, wagers to conceal or launder funds derived from
323 illegal activity, agents to place wagers, or false
324 identification.

325 547.007 Unclaimed winnings.—If a person does not claim a

326 winning wager within 1 year after the wager is graded, the
327 obligation of the division or the licensee to pay the winnings
328 expires and the funds must be distributed as follows:

329 (1) For wagers placed at a self-service kiosk operated by
330 the division, 100 percent to the Pari-mutuel Wagering Trust Fund
331 of the Department of Business and Professional Regulation.

332 (2) For wagers placed through a website or application
333 offered by a licensee, 50 percent to the licensee and 50 percent
334 to the Pari-mutuel Wagering Trust Fund of the Department of
335 Business and Professional Regulation.

336 547.008 Penalties.—

337 (1) Except as otherwise provided by law and in addition to
338 any other penalty, a person who knowingly makes or causes to be
339 made, or aids, assists, or procures another to make, a false
340 statement in a report, disclosure, or application, or any other
341 document required under this chapter or any rule adopted under
342 this chapter, is subject to an administrative fine or civil
343 penalty of up to \$10,000.

344 (2) A person who violates s. 547.006 is subject to an
345 administrative fine or civil penalty of up to \$1,000 per
346 violation.

347 (3) A person who operates a sports pool without a valid
348 license issued pursuant to this chapter commits a felony of the
349 third degree, punishable as provided in s. 775.082, s. 775.083,
350 or s. 775.084.

351 (4) A licensee who violates any provision of this chapter
352 commits a misdemeanor of the first degree, punishable as
353 provided in s. 775.082 or s. 775.083. A licensee who commits a
354 second or subsequent violation of the same paragraph or
355 subsection within 3 years after the date of a prior conviction
356 for a violation of such paragraph or subsection commits a felony
357 of the third degree, punishable as provided in s. 775.082, s.
358 775.083, or s. 775.084.

359 (5) A person who knowingly excludes, or takes any action
360 in an attempt to exclude, anything of value from the deposit,
361 counting, collection, or computation of revenues from sports
362 wagering activity, or a person who by trick, sleight-of-hand
363 performance, a fraud or fraudulent scheme, or device wins or
364 attempts to win, for himself or herself or for another, money or
365 property or a combination thereof or reduces or attempts to
366 reduce a losing wager in connection with sports wagering,
367 commits a felony of the third degree, punishable as provided in
368 s. 775.082, s. 775.083, or s. 775.084.

369 (6) Theft of any sports wagering proceeds belonging to a
370 licensee by an employee of the licensee or by an employee of a
371 person, firm, or entity that has contracted to provide services
372 to the licensee constitutes a felony of the third degree,
373 punishable as provided in s. 775.082 or s. 775.083.

374 (7) All penalties imposed and collected under this section
375 must be deposited into the Pari-mutuel Wagering Trust Fund of

HB 1317

2021

376 | the Department of Business and Professional Regulation.

377 | Section 2. This act shall take effect October 1, 2021, if
378 | HB 1319 and HB 1321 or similar legislation are adopted in the
379 | same legislative session or an extension thereof and become law.