

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 Regulated Industries Committee

BILL: SB 522

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Cardrooms

DATE: April 12, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harrington	Imhof	RI	Favorable
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The bill authorizes pari-mutuel cardroom operators to offer the game of bingo. The bill provides a definition of bingo and provides that the cardroom operator must return 80 percent of all proceeds from the game to the players in the form of prizes and cash. The bill provides that gross receipts for bingo games refers to the total amount received by the cardroom operator for participating in the bingo game less the total amount paid to the winners or others as prizes or cash awards.

This bill substantially amends the following section of the Florida Statutes: 849.086.

II. Present Situation:

Pari-mutuel Wagering

Pari-mutuel wagering is a “system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.”¹

The regulation of the pari-mutuel industry is governed by ch. 550, F.S., and is administered by the Division of Pari-mutuel Wagering (division) within the Department of Business and Professional Regulation (department).

¹ Section 550.002(22), F.S.

The pari-mutuel industry in Florida is made up of greyhound racing, different types of horseracing, and jai alai.² There are 27 pari-mutuel facilities currently in operation. The industry consists of 16 greyhound tracks, six jai alai frontons, three thoroughbred tracks, one harness track, and one quarter horse track. Twenty-three of the facilities have cardrooms³ and five facilities have slot machines.⁴

Cardrooms

Pari-mutuel facilities within the state are allowed to operate poker cardrooms under s. 849.086, F.S. A cardroom may be operated only at the location specified on the cardroom license issued by the division and such location may be only where the permitholder is authorized to conduct pari-mutuel wagering activities subject to its pari-mutuel permit. 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 charges a fee for participation by the operator of such facility.

Authorized games and cardrooms do not constitute casino gaming operations. Instead, such games are played in a non-banking matter, i.e., where the facility has no stake in the outcome. Such activity is regulated by the department and must be approved by ordinance of the county commission where the pari-mutuel facility is located.

In order to renew a cardroom operator license, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior to the application if the cardroom operator ran a full schedule of live racing in that prior year.⁵

Cardrooms can operate 18 hours per day Monday through Friday and 24 hours per day on weekends and specified holidays.⁶ No person under 18 may participate in any authorized game.⁷ In addition, cardrooms may not utilize any mechanical or electronic devices, except for mechanical shufflers.⁸

Cardroom annual license fees are \$1,000 per table.⁹ Each cardroom operator shall pay a tax to the state of 10 percent of the cardroom operation’s monthly cross receipts.¹⁰

² “Jai alai” or “pelota” means a ball game of Spanish origin played on a court with three walls. *See*, s. 550.002(18), F.S.

³ *See* <http://www.myflorida.com/dbpr/pmw/track.html> (Last visited April 6, 2011).

⁴ *Id.* Gulfstream Park, Mardi Gras Racetrack and Gaming Center, Flagler Dog Track and Magic City Casino, Calder/Tropical, and The Isle Casino and Racing at Pompano Park have slot machine gaming.

⁵ Sections 849.086(5)(b) and 550.002(11), F.S. (defines what constitutes a full schedule of live racing. Each type of permit has a different requirement).

⁶ Section 849.086(7)(b), F.S.

⁷ Section 849.086(12)(b), F.S.

⁸ Section 849.086(12)(c), F.S.

⁹ Section 849.086(5)(d), F.S.

¹⁰ Section 849.086(13)(a), F.S.

Bingo

Section 849.0931, F.S., authorizes the playing of charitable bingo. Bingo was authorized in 1967 by the Legislature to provide charitable, nonprofit, and veterans' organizations a way to raise money for their charitable projects and activities. Section 849.0931(1)(a), F.S., provides that

“Bingo game” means and refers to the activity, commonly known as “bingo,” in which participants pay a sum of money for the use of one or more bingo cards. When the game commences, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the bingo cards which they have purchased until a player receives a given order of numbers in sequence that has been preannounced for that particular game. This player calls out “bingo” and is declared the winner of a predetermined prize. More than one game may be played upon a bingo card, and numbers called for one game may be used for a succeeding game or games.

No statutory provision exists for statewide enforcement or interpretation of the bingo law. Enforcement of the law is the responsibility of local law enforcement agencies. Several counties have passed their own bingo ordinances to address problems associated with the game.

Section 849.0931, F.S., authorizes bingo games to be conducted for money by certain organizations under narrowly prescribed parameters. Pursuant to s. 849.0931(1)(c) and (4), F.S., organizations that are authorized to conduct bingo games include:

- Charitable, nonprofit, and veterans' organizations which are defined as tax-exempt under s. 501(c) of the Internal Revenue Code of 1954, or s. 528 of the Internal Revenue Code of 1986; which are engaged in charitable, civic, community, benevolent, religious, or scholastic works or similar activities; and which have been in existence and active for at least three years.
- Condominium associations, cooperative associations, homeowners' associations, mobile home owners' associations, and a group of residents of a mobile home park or recreational vehicle park.

These organizations must be directly involved in the operations of the bingo game and may not act merely as sponsors.¹¹ Members of the organization must conduct the game and cannot be compensated in any way for this role.¹² In addition, the organization that conducts the game must be “located in the county, or within a 15-mile radius of, where the bingo game or instant bingo is located.”¹³ The property where bingo or instant bingo games are held must be owned or leased by the authorized organization or owned by the charitable organization that will benefit from the proceeds of the game.¹⁴

Section 849.0931, F.S., defines how bingo proceeds, which remain after prizes have been awarded, can be used. Charitable, nonprofit, and veterans' organizations must donate the proceeds to the organizations' listed endeavors. Net proceeds generated from bingo games

¹¹ Section 849.0931(2)(b), F.S.

¹² Section 849.0931(8), F.S.

¹³ Section 849.0931(9), F.S.

¹⁴ Section 849.0931(11), F.S.

conducted by condominium associations, cooperative associations, homeowners' associations, mobile home owners' associations, and a group of residents of a mobile home park or recreational vehicle park, however, must be donated to a charitable tax-exempt organization or returned to the players in the form of prizes. In addition, these associations have the option of carrying over the proceeds for use as prize money in subsequent games, with the provision that players cannot be charged to participate in the subsequent games until these excess proceeds are exhausted.¹⁵

The statute also establishes restrictions on bingo jackpots. No jackpot may exceed the value of \$250 in actual money or its equivalent. There cannot be more than three jackpots on any one day of play, and all other game prizes may not exceed \$50.¹⁶ An organization cannot conduct bingo more than two days per week.¹⁷

Participants in bingo games must be at least 18 years old.¹⁸ The organization that is conducting the game "may refuse entry to any person ... but such refusal of entry shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, or physical handicap."¹⁹

In addition to regular bingo, the Legislature authorized instant bingo in 2007. Instant bingo is a form of bingo that is played at the same location as bingo, using tickets by which a player wins a prize by opening and removing a cover from the ticket to reveal a set of numbers, letters, objects, or patterns, some of which are predetermined to be winners.²⁰ Instant bingo tickets are also known informally as "pull-tabs." Instant tickets may not be sold for more than one dollar.²¹

III. Effect of Proposed Changes:

The bill authorizes pari-mutuel cardrooms to offer the game of bingo as an authorized game, in addition to poker and dominos.

The bill provides a definition of bingo to mean:

The activity in which participants pay a sum of money for the use of one or more bingo cards. When the game commences, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the bingo cards when they have purchased until a player receives a given order of numbers in sequence that has been preannounced for that particular game. This player calls out 'bingo' and is declared the winner of a predetermined prize. More than one game may be played upon a bingo card, and numbers called for one game may be used for a succeeding game or games.

The definition mirrors the definition of bingo used for charitable bingo authorization.

¹⁵ Section 849.0931(2)-(4), F.S.

¹⁶ Sections 849.0931(5) and (7), F.S.

¹⁷ Section 849.0931(5)-(7), F.S.

¹⁸ Section 849.0931(10)(a), F.S.

¹⁹ Section 849.0931(10)(b), F.S.

²⁰ Section 849.0931(1)(f), F.S.

²¹ Section 849.0931(13)(a), F.S.

The bill provides that cardroom operators must return 80 percent of all proceeds from bingo during the year to the players in the form of prizes and cash awards. In addition, the bill provides that for the purpose of bingo games only, the term “gross receipts” means the total amount received by the cardroom operator less the amount paid to the winners or others as prizes or cash awards.

The bill provides an effective date of July 1, 2011.

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 provides a 10 percent taxation on the gross receipts for the conduct of bingo in pari-mutuel cardroom facilities. In addition, depending on how *bingo tables* are defined, cardroom operators may have an increased cardroom license fee for each additional *table*.

C. Government Sector Impact:

The department estimates that there will be an indeterminate, but minimal, increase in revenues as a result of this bill. The department estimates that any increase in workload can be accommodated by current staff.

VI. Technical Deficiencies:

The bill does not include a definition for “bingo card,” “objects,” “rack,” or “receptacle,” which are used in s. 849.0931, F.S. The definitions are necessary to ensure that only the traditional form of bingo is authorized for cardrooms.

VII. Related Issues:

Revenue sharing with the Seminole Indian Compact (compact)²² relies on continued exclusivity of casino style and Class III gaming.²³ The compact provides that if, after February 1, 2010, Florida law is amended by action of the Florida Legislature or an amendment to the Florida Constitution to allow (1) the operation of Class III gaming or other casino-style gaming at any location under the jurisdiction of the State that was not in operation as of February 1, 2010, or (2) new forms of Class III gaming or other casino-style gaming that were not in operation as of February 1, 2010, the payments due to the State shall cease when the newly authorized gaming begins.²⁴ The compact provides that Class III gaming or other casino-style gaming includes, but is not limited to, the following: slot machines, electronically-assisted bingo or electronically-assisted pull-tab games, table games, and video lottery terminals, or any similar games.

The compact provides multiple exceptions to the exclusivity provision against expansion. For example, games authorized under ch. 849, F.S., as of February 1, 2010 have no impact on payments from the Tribe. In addition, pari-mutuel wagering activities have no impact on payments from the Tribe.

Because this bill authorizes bingo, a game legal under ch. 849, F.S., as of February 1, 2010, this bill should have no impact on revenue sharing with the Tribe. In addition it is unlikely that the traditional game of bingo would constitute a casino-style game. Bingo is not a Class III game.²⁵ Therefore, allowing cardrooms to offer bingo should not impact Tribal exclusivity or any payments from the Tribe. However, the bill may need to be amended to ensure that only the traditional form of bingo is authorized.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

²² See, *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, July 6, 2010.

²³ The Indian Gaming Regulatory Act divides 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. "Class II gaming" includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo. Class II gaming may also include certain non-banked card games if permitted by state law or not explicitly prohibited by the laws of the state but the card games must be played in conformity with the laws of the state. "Class III gaming" includes all forms of gaming that are not Class I or Class II, 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. 25 U.S.C. ss. 2703(6)-(8).

²⁴ The payments are \$150 million for the first two years of the compact, \$233 million for the next two years, and \$234 million for the last year for a total of \$1 billion. See Parts III.L and III.M of the compact.

²⁵ *Supra* at n. 23.