

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 742

INTRODUCER: Gaming Committee and Senator Sobel and others

SUBJECT: Racing Animals

DATE: April 21, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Guthrie</u>	<u>GM</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 742, now titled Racing Animals, requires greyhound track veterinarians to prepare detailed reports of all injuries to racing greyhound dogs that occur while the dogs are on a racetrack or in another location. Injury reports must be signed under oath and witnessed by a representative of the Division of Pari-Mutuel Wagering (division) in the Department of Business and Professional Regulation (department). The reports and any associated records are public records that must be maintained for seven years. False statements in an injury report may result in a \$1,500 fine for a first violation and \$3,000 or more for subsequent violations.

The bill modifies requirements regarding prohibited medication or drugging of racing animals (horses and greyhounds). The fine for violations may be up to \$10,000 or the race winnings (purse amount), whichever is greater. Prosecutions must be started within 180 days of the race date. Samples collected from racing animals at racetracks are held by the division, but a portion of each sample is sent to the state laboratory to analyze whether it contains any substance prohibited in racing animals. If the analyzed sample does contain prohibited substances, the owner or trainer has the right to request analysis by an independent laboratory on the remaining portion of the sample. If the second analysis does not confirm the first, or is of insufficient quantity to do so, no prosecution may be pursued against the owner or trainer, and any suspended licensee must be reinstated. The ability of laboratories approved by the division to analyze samples for prohibited substances must be assessed on an annual basis.

The department estimates the need for two positions and \$231,026 from the Pari-mutuel Wagering Trust Fund for the 2014-2015 fiscal year. See Section V.

II. Present Situation:

As of June 30, 2013, there were 30 pari-mutuel facilities in Florida, including 16 greyhound tracks, six jai alai frontons, four quarter horse tracks, three thoroughbred tracks, and one harness track.¹ Among the 16 greyhound racing tracks, three conducted races at leased facilities² so the actual number of operating tracks is 13. In addition, there were four tracks that operated two greyhound permits each,³ bringing the total number of greyhound racing permitholders with Fiscal Year 2013-2014 operating licenses to 20. Jefferson County Kennel Club recently closed, reducing the number of operating permitholders to 19 and the number of operating tracks to 12.

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.⁴ More greyhound racing performances occur in Florida than any other state.

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. 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.

Under current law, greyhound permitholders are not required to have operating licenses if not currently conducting live racing. There are ten inactive permits: one greyhound,⁵ two jai alai, one limited thoroughbred,⁶ and six quarter horse⁷ permits.

Greyhound permitholders must apply for an annual operating license, specifying the number, dates, and starting times of all performances to be conducted.⁸ A “performance” is a minimum of eight consecutive live races.⁹ At least three live performances must be held at a track each week.¹⁰ When a permitholder conducts at least three live performances in a week, it must pay

¹ Information about facilities regulated by the Division of Pari-Mutuel Wagering are published in *82nd Annual Report, Fiscal Year 2012-2013*, <http://www.myfloridalicense.com/dbpr/pmw/documents/AR/AnnualReport2012-2013--82nd--2014-01-24.pdf> (last visited April 10, 2014).

² 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.

³ H & T Gaming @ Mardi Gras and Mardi Gras share a facility in Hallandale Beach, Daytona Beach Kennel Club and West Volusia Racing-Daytona share a facility in Daytona Beach, Palm Beach Kennel Club and License Acquisitions-Palm Beach share a facility in West Palm Beach, and Sanford-Orlando Kennel Club and Penn Sanford @SOKC share a facility in Longwood.

⁴ Section 550.002(29), F.S.

⁵ North American Racing Association (Key West).

⁶ Under s. 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).

⁷ A quarter horse is capable of high speed for a short distance; the breed was developed in the American West. See s. 550.002(28), F.S.

⁸ Section 550.01215, F.S.

⁹ Section 550.002(25), F.S.

¹⁰ Section 550.002(11), F.S.

purses (cash prizes) on wagers accepted at the track on certain greyhound races run at other tracks (in Florida or elsewhere).¹¹

In order to receive an operating license, a greyhound permitholder must have conducted a full schedule of live racing during the preceding year,¹² that is, a minimum of 100 live performances.¹³

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 the license,¹⁴ unless the failure is due to certain events beyond the permitholder's control.¹⁵ Financial hardship itself is not an acceptable basis to avoid a fine or suspension.¹⁶

Intertrack Wagering and Simulcast

Section 550.615(2), F.S., allows a greyhound permitholder that has conducted a full schedule of live racing in the preceding year to receive broadcasts and accept wagers on any type of pari-mutuel race or game conducted by other licensed pari-mutuel permitholders in the state. This type of wagering is defined as "intertrack wagering."¹⁷

Wagering on a simulcast event occurs when a wager is placed on (1) a live race or game that is broadcast outside the state from an in-state location, or (2) a live race or game that occurs outside the state but is broadcast to a permitholder in the state.¹⁸

Cardrooms at Pari-mutuel Locations

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. Eleven of the 12 currently operating greyhound racing locations have cardrooms.¹⁹ As a result of the "90 percent rule," the required minimum of live performances varies among greyhound permitholders (e.g., in Fiscal Year 2012-2013, the number of performances ranged from 104 to 395).

¹¹ Section 550.09514(2)(c), F.S.

¹² 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.

¹³ 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.

¹⁴ Section 550.01215(4), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Section 550.002(17), F.S.

¹⁸ Section 550.002(32), F.S.

¹⁹ Section 849.086(5)(a), F.S., provides that an initial cardroom license may be issued to a permitholder only after its facilities are in place and it has conducted its first day of live racing or games. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing. See s. 849.086(5)(b), F.S., Renewal of a cardroom license requires that the permitholder's annual application requests at least 90 percent of the performances conducted either (1) in the year in which its first cardroom license was issued, or (2) in the state fiscal year immediately prior to the application if a full schedule of live racing was conducted.

Slot Machines at Pari-mutuel Locations in Miami-Dade and Broward Counties

Section 551.104(4), F.S., outlines licensing requirements related to slot machine gaming, which is authorized only in Miami-Dade and Broward counties.²⁰ A greyhound permitholder that is also a slot machine licensee must conduct at least a full schedule of live racing or games as defined in s. 551.002 (11), F.S.

Injury Reporting

The division, by administrative rule 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 of a greyhound track or kennel compound. 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.²¹ Also, if an animal is injured and later dies or is euthanized, the division may conduct a postmortem examination.²²

Testing for Prohibited Substances in Racing Animals

The racing of animals (horses and greyhound) using any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent is generally prohibited.²³ However, the division may adopt rules specifying acceptable levels of naturally occurring substances in untreated animals which may not be exceeded in race-day specimens.²⁴ Other drugs and substances are permitted under limited conditions, such as furosemide to treat exercise-induced bleeding, and vitamins and minerals that do not exceed acceptable levels.²⁵ Classification of a substance in a sample as permissible or impermissible may be dependent upon whether:

- The substance is administered within or outside the allowed time frame before a race is scheduled to begin;
- The racing animal is approved for administration of the substance, is qualified by gender to receive it;
- The level of the substance exceeds acceptable levels set by administrative rule; and
- The method of administration of the substance is prohibited.²⁶

Each racetrack permitholder must maintain a detention enclosure for securing urine, blood or other samples from racing animals.²⁷ The trainer of record for each animal is responsible for the

²⁰ See s. 551.010, F.S., and FLA. CONST. art. X, s. 23.

²¹ See also Rule 61D-2.023(2)(k), F.A.C.

²² 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.

²³ Section 550.2415, F.S.

²⁴ Section 550.2415(b), F.S. The division may also set acceptable levels of environmental contaminants and trace levels of prohibited substances that are not reportable as a violation.

²⁵ Section 550.2415(7), F.S.

²⁶ *Id.*

²⁷ Rule 61D-6.002(2), F.A.C.

condition of the animals entered into race,²⁸ and for securing all prescribed medications, over-the-counter medicines, and natural or synthetic medicinal compounds.²⁹

Samples of blood, urine, saliva, or any other bodily fluid may be collected from a race animal before and immediately after it has raced.³⁰ If racing officials find, through reasonably reliable evidence, that substances other than permissible substances have been administered, or that otherwise permissible substances have been administered during prohibited periods before the time of a race, the animal may be prohibited from racing in the race (scratched).³¹

The winner of every race is sent to the detention enclosure for examination by an authorized representative of the division and the taking of samples to monitor and detect both permissible and impermissible substances.³² Any other animals that participated in the race may be designated for examination and testing by the stewards, judges, racetrack veterinarian or a division representative.³³

All samples are collected by staff of the Office of Operations within the division and sent to the University of Florida, College of Medicine Racing Laboratory for analysis.³⁴ Blood specimens must be collected from racing animals by veterinarians employed by the division or any licensed veterinarian hired or retained by the division, and the collection must be witnessed by the animal's trainer, owner, or designee.³⁵

The 82nd Annual Report of the division reflects that during Fiscal Year 2012-2013, the laboratory processed 89,597 samples and performed 386,276 analyses, as follows:³⁶

Sample Type	Horse Urine/Blood	Greyhound Urine	Investigative
Samples Received	20,133	69,397	67
Samples Analyzed	20,005	48,184	25
Number of Analyses	95,535	290,675	66
Positive Results	285	21	n/a

The volume of many greyhound urine samples that were taken at racetracks, 21,538 or 31 percent of the total, was insufficient to permit valid testing of those samples.³⁷

²⁸ Rule 61D-6.002(1), FAC.

²⁹ Rule 61D-6.003, F.A.C. Prescription drugs must be prescribed by a licensed veterinarian who has a current veterinarian-patient relationship, and all substances must be properly labelled.

³⁰ Section 550.2415(1)(a), F.S.

³¹ See s. 550.2415(8), F.S. and Rule 61D-6.005, F.A.C.

³² Rule 61D-6.005, F.A.C.

³³ *Id.*

³⁴ See in 82nd Annual Report, Fiscal Year 2012-2013, at page 3,

<http://www.myfloridalicense.com/dbpr/pmw/documents/AR/AnnualReport2012-2013--82nd--2014-01-24.pdf> (last visited April 10, 2014). The division annually contracts with the racing laboratory for these services.

³⁵ Rule 61D-6.005, F.A.C.

³⁶ See *supra* note 34, at page 35.

³⁷ *Id.*

Of the 89,530 non-investigative samples that were collected at racetracks, 68,189 samples were analyzed, and there were 306 positive results (i.e. a finding of impermissible substances).³⁸

If a prohibited substance is found in a race-day specimen, it is evidence that the substance was administered to and in the racing animal while racing.³⁹ Test results are confidential and exempt public records for ten days after the testing of all samples collected on a particular day have been completed and the positive results have been reported to the director of the division, or until action against a person licensed by the division has been commenced by the service of an administrative complaint.⁴⁰

Once the division notifies the owners or trainer of the positive result as required, the owner may request that each urine or blood sample be split into a primary sample and a secondary (split) sample. The splitting procedure must occur in the laboratory using procedures approved by the division by rule.⁴¹ At the request of either the affected owner or trainer, the division must send the secondary sample to an independent laboratory for analysis.

If the positive result found by the state laboratory is not confirmed by the analysis made by the independent laboratory, no further administrative or disciplinary action may be pursued by the division.⁴² If the positive result is confirmed, or if the volume of the secondary sample is insufficient to do so, then administrative proceedings may begin on the basis of the analysis made by the state laboratory.⁴³ There must be a good faith attempt by the division to obtain a sufficient quantity of fluid specimens to allow both a primary test to be made by the state laboratory and a secondary test to be made by an independent laboratory.⁴⁴ The division must begin administrative proceedings against a licensee for a violation based on a positive drug test result within two years of the race date.⁴⁵

According to the division, there were 27 license suspensions, and \$66,375 in fines assessed for violations of all pari-mutuel statutes and rules in Fiscal Year 2012-2103.⁴⁶

III. Effect of Proposed Changes:

The bill requires that an injury to a racing greyhound be reported by a racetrack veterinarian to the division. The bill requires reporting of the following information about an injury that does not cause a racing greyhound's death:

- Specific identification of the injured greyhound (name, tattoos, microchip information, color weight, and sex);
- Contact information for the greyhound's owner, trainer, and kennel operator;
- The location where the injury occurred, whether on a racetrack, or elsewhere;

³⁸ *Id.*

³⁹ Section 550.2415(1)(b), F.S.

⁴⁰ See ss. 550.2415(1)(a) and (4), F.S.

⁴¹ Section 550.2415(5)(a), F.S.

⁴² Section 550.2415(5)(b), F.S.

⁴³ Section 550.2415(5)(c), F.S.

⁴⁴ *Id.*

⁴⁵ Section 550.2415(4), F.S.

⁴⁶ See *supra* note 34, at page 3.

- The weather and track conditions at the time of the injury; and
- The type and location of the injury, its cause, and the recovery time anticipated.

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

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

Racing greyhound injury reports must be sworn to by the racetrack veterinarian under penalty of perjury and witnessed by an employee or other designated representative of the division. False statements in an injury report may result in a \$1,500 fine for a first violation and \$3,000 or more for subsequent violations. The bill does not set a deadline for the submission of injury reports.

The bill provides that the records that are created and maintained regarding injury reports are public records that must be maintained by the division for seven years. Any oral or written requests to the division for the records must result in the records being made “readily available.”

The bill modifies requirements relating to the prohibited medication or drugging of racing animals (horses and greyhounds). The fine for violations may be up to \$10,000 or the race winnings (purse amount), whichever is greater. Prosecutions must be started within 180 days of the race date.

The division must split urine and blood samples collected at racetracks, retaining a portion of the sample sent to the state racing laboratory. The University of Florida, College of Medicine Racing Laboratory is under annual contract for these services. If the state laboratory finds that the sample contains prohibited substances, the owner or trainer has the right to request another analysis be made on the retained portion (split sample) by an independent laboratory.

If the independent laboratory’s analysis does not confirm the finding made by the state laboratory, or if the quantity of the available split sample is not sufficient to do so, no prosecution may be pursued against the owner or trainer, and any suspended license must be reinstated.

Laboratories approved by the division to analyze samples collected from racing animals must undergo a third party, annual assessment of their ability to detect and quantify substances that may be administered to racing animals. The administrator of the quality assurance program must report the results and findings to the division.

The bill provides for an effective date of July 1, 2014.

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:

CS/SB 742 requires additional reporting which will have an indeterminate fiscal impact on greyhound racetracks. The changes to the sampling of urine and blood specimens from racing animals and the annual assessment of independent testing laboratories will have an indeterminate impact on horse and greyhound tracks, and the owners and trainers of racing animals.

Individuals who knowingly file false injury reports will be subject to a fine up to \$1,500 for a first violation and at least \$3,000 for second or subsequent violations.

Individuals found in violation of impermissibly medicating or drugging race animals will be subject to a fine in an amount not exceeding the purse or sweepstakes earned by the animal or \$10,000, whichever is greater.

C. Government Sector Impact:

The bill may have a positive but indeterminate increase in state revenues related to the additional fines for violations resulting from falsifying injury reports and impermissibly medicating race animals.

The bill requires information system program changes to the department's Versa system and OnBase document management system. The department indicates that the additional programming costs can be handled within existing resources. The infrastructure and licensing costs are estimated to be \$3,147 for two additional personnel.⁴⁷

The bill requires recordkeeping of injury reports and producing documents in response to public records requests for injury reports on greyhounds. The bill also changes the current process related to the collection of split sampling and provides additional guidelines and requirements for the division. The department staff estimates the implementation of this bill will require two full-time equivalent positions and \$227,879 from the Pari-mutuel Wagering Trust Fund. Included in the costs are expenditures of \$16,000 for two

⁴⁷ 2014 Legislative Bill Analysis for CS/SB 742, Department of Business and Professional Regulation (April 17, 2014).

additional freezers to store the volume of samples, increased shipping costs of \$35,000 for collected samples, and \$55,000 for additional supplies (i.e. containers, tags, tubes, etc.).⁴⁸

All unappropriated funds in excess of \$1.5 million, and those funds necessary for incurred obligations and subsequent year positive cash flow for slot machine regulation in the Pari-mutuel Wagering Trust Fund, are transferred to the General Revenue Fund annually.⁴⁹ Therefore, increases to the division's appropriations will impact the General Revenue Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not set deadlines for completing racing greyhound injury reports or providing the quality assurance results and findings reports to the Division of Pari-Mutuel Wagering.

VIII. Statutes Affected:

The bill substantially amends section 550.2415 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Gaming on April 8, 2014:

The committee substitute amends s. 550.2415, F.S., to modify requirements respecting the prohibited medication or drugging of racing animals (horses and greyhounds). The fine for violations may be up to \$10,000 or the race winnings (purse amount), whichever is greater. Prosecutions must be started within 180 days of the race date.

The Division of Pari-Mutuel Racing must split urine and blood samples collected at racetracks, retaining a portion of the sample sent to the state racing laboratory. If the state laboratory finds that the sample contains prohibited substances, the owner or trainer has the right to request another analysis be made on the retained portion (split sample) by an approved independent laboratory. Independent laboratories must undergo third party assessment of their ability to detect and quantify substances that may be administered to racing animals.

If the independent laboratory's analysis does not confirm the finding made by the state laboratory, or if the quantity of the available split sample is insufficient, no prosecution may be pursued against the owner or trainer, and any suspended license must be reinstated.

⁴⁸ *Id.*

⁴⁹ *Id.*

B. Amendments:

None.

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