

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: SB 12A

INTRODUCER: Senator Hutson

SUBJECT: Taxes/Pari-mutuel Facility Bingo Games and Instant Bingo

DATE: May 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer/Imhof</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

I. Summary:

SB 12A imposes a 10 percent gross receipts tax to be paid to the Division of Pari-Mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) by pari-mutuel permitholders that are licensed to conduct bingo games or instant bingo at licensed pari-mutuel facilities in the state, under specific and limited conditions. Currently, the conduct of bingo activities in the state is limited to certain charitable, nonprofit, and veterans' organizations and residents in community associations and residential parks, under specific and limited conditions set forth in s. 849.0931, F.S. (charitable bingo). Under the bill, only pari-mutuel permitholders licensed as bingo operators must pay this tax, which is based on gross receipts related to bingo games and instant bingo, and such tax does not apply to the groups conducting charitable bingo in compliance with Florida law.

SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo), is a linked bill that addresses the conduct of bingo games and instant bingo, as well as prohibited gambling activities in the state.

See Section V, Fiscal Impact Statement.

The bill is effective on the same date that SB 10A (Pari-mutuel Facility Bingo Games Instant Bingo) or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴

However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷
- Cardrooms⁸ at certain pari-mutuel facilities;⁹
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;¹⁰
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S, the Family Amusement Games Act;¹¹ and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
 - Penny-ante games;¹²
 - Bingo;¹³
 - Charitable drawings;¹⁴
 - Game promotions (sweepstakes);¹⁵ and
 - Bowling tournaments.¹⁶

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ Section 849.16, F.S.

⁵ “Pari-mutuel” is defined in Florida law as “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. See s. 550.002(22), F.S.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086, F.S. See s. 849.086(2)(c), F.S., which 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.”

⁹ The Department of Business and Professional Regulation (DBPR) has issued licenses to permitholders with 2021-2022 Operating Licenses to operate 27 cardrooms. See <http://www.myfloridalicense.com/DBPR/pari-mutuel-wagering/permitholder-operating-licenses-2021-2022/> (last visited Apr. 7, 2021).

¹⁰ Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹¹ See s. 546.10, F.S.

¹² See s. 849.085, F.S.

¹³ See s. 849.0931, F.S.

¹⁴ See s. 849.0935, F.S.

¹⁵ See s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁶ See s. 849.141, F.S.

Bingo Games and Instant Bingo by Charitable Organizations

The play of bingo games and instant bingo under current law (charitable bingo) must meet numerous requirements and is restricted as set forth in s. 849.0931, F.S., which specifies in subsection (12) numerous requirements for the conduct of charitable bingo. 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 501(c) of the Internal Revenue Code of 1954, or section 528 of the Internal Revenue Code of 1986, and have been in existence and active for at least three years.
- Condominium associations, cooperative associations, homeowners' associations as defined in s. 720.301, F.S., mobile home owners' associations, and a group of residents of a mobile home park or recreational vehicle park, as defined in ch. 723 and ch. 513, F.S.

Any organization or other person who willfully and knowingly violates s. 849.0931, F.S., commits a misdemeanor of the first degree, punishable by a term of imprisonment not to exceed one year and a fine not to exceed \$1,000.¹⁷

Bingo Games and Instant Bingo Conducted at Pari-mutuel Facilities

The conduct of bingo games and instant bingo at licensed pari-mutuel facilities is not authorized under current law, but is proposed to be authorized as described in s. 849.089, F.S., created in the linked bill, SB 10A, relating to Pari-mutuel Facility Bingo Games and Instant Bingo.

III. Effect of Proposed Changes:

The bill imposes a 10 percent gross receipts tax to be paid to the division by pari-mutuel permitholders that conduct bingo games or instant bingo at licensed pari-mutuel facilities in the state, under specific and limited conditions, as described in the linked bill, SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo).

Under the bill, violators are subject to a civil penalty of up to \$1,000 for each day a required tax payment is not remitted. If a penalty is not paid, the division may suspend or revoke the bingo operator's license, or deny issuance of any further license to the bingo operator.

The bill is effective on the same date that SB 10A (Pari-mutuel Facility Bingo Games Instant Bingo) or similar legislation takes effect, if such legislation is adopted in the same legislative session or any extension and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁷ See s. 849.0931(14), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII of the State Constitution requires a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”¹⁸

Section 19 of Article VII of the State Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill imposes a 10 percent gross receipts tax to be paid by pari-mutuel permitholders that conduct bingo games or instant bingo at licensed pari-mutuel facilities in the state.

B. Private Sector Impact:

Licensed pari-mutuel permitholders that conduct bingo games and instant bingo (bingo operators) will be required to pay tax to the state equal to 10 percent of the bingo operator’s net monthly gross receipts from conducting bingo games and instant bingo as described in the bill.

C. Government Sector Impact:

The creation of an additional licensing and regulatory structure for the conduct of bingo games and instant bingo by pari-mutuel permitholders who are licensed as bingo operators may result in a fiscal impact to the DBPR.

VI. Technical Deficiencies:

None.

¹⁸ FLA. CONST. art. VII, s. 19(d)(1).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends subsection (1), paragraph (j) of subsection (2), and subsection (11) of section 849.089 of the Florida Statutes, which is created by the linked bill, SB 10A (Pari-mutuel Facility Bingo Games and Instant Bingo).

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.