

**STORAGE NAME:** h0979s1.rs

**DATE:** March 28, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
REGULATED SERVICES  
ANALYSIS**

**BILL #:** CS/HB 979

**RELATING TO:** Pari-Mutuel Consolidation Act

**SPONSOR(S):** Committee on Regulated Services and Representative Andrews

**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) REGULATED SERVICES YEAS 6 NAYS 1
  - (2) GOVERNMENTAL OPERATIONS
  - (3) FINANCE & TAXATION
  - (4) GENERAL GOVERNMENT APPROPRIATIONS
  - (5)
- 

**I. SUMMARY:**

This bill creates the "Pari-mutuel Consolidation Act of 2000" and allows one or more same-class pari-mutuel permitholders in overlapping market areas to agree to conduct their live races or games at a single facility. Thereafter, the facility that ceases to offer live events would be allowed to take intertrack wagers [ITW] on pari-mutuel events, either at its original physical location or at a new ITW-only location in the same general geographical area. The cost to operate an ITW-only facility will be significantly less to the permitholder than the cost of operating and maintaining an existing facility where live races or games are conducted.

In order for a pari-mutuel permitholder to be eligible to open an ITW-only facility, the lessee permitholder must have conducted a full schedule of live events in the previous year.

The bill limits the number of wagering locations to no more than the number which would be permissible if all valid permits were to operate live at separate facilities. If any of the several facilities which presently have two permits operating out of one facility elect to consolidate under the provisions of this bill they could then open an ITW-only facility which would, in effect, increase the number of wagering "locations" which currently exist.

This legislation is estimated to have an annual negative impact on state revenue collections of \$20,000 annually.

The bill provides that the act will take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 550, Florida Statutes, contains Florida's laws governing the regulation and taxation of pari-mutuel wagering activities in the state. The Division of Pari-Mutuel Wagering [division] of the Department of Business and Professional Regulation, is the state agency with general regulatory authority over these activities.

Over the last decade there has been a steady decline in attendance, wagering handle, and tax collections for pari-mutuel wagering activities. Total state revenue collections from all pari-mutuel operations decreased from \$118,466,567 in FY 1988-89 to \$62,934,837 for FY 1998-99. The November 1999 Revenue Estimating Conference estimates total state revenue collections will continue to decline. In recent years, numerous amendments to the pari-mutuel statutes have been adopted in efforts to mitigate the impact of this decline.

Section 550.054, Florida Statutes, establishes the application process for receiving a pari-mutuel wagering permit. Pari-mutuel wagering may not be conducted, however, until such time as a referendum on the subject is ratified or rejected by the voters in the county where the facility would be located. [See s. 550.0651, F.S.] Annual operating licenses are issued to permitholders for the location specified in the permit.

Consolidation of Pari-Mutuel Operations

Present law [s. 550.475, F.S.] allows greyhound, thoroughbred and standardbred permitholders to lease their facilities to like-kind permitholders, located within a 35 mile radius. Thoroughbred and standardbred facilities, while both are horse tracks, are not considered like-kind facilities. The permitholder leasing the facility is authorized to conduct its race meet [live, simulcast and intertrack] at the leased facility. This statute does not appear to authorize the permitholder leasing another's facility to send its ITW signal back to the permitholder's original facility.

Intertrack Wagering

The ability to conduct intertrack wagering is generally conditioned upon a permitholder's operation of a full schedule of live events in the previous year with specific conditions placed on each class of permitholder and, often, with specific conditions placed on permitholders within a class. Current law, s. 550.6308, Florida Statutes, allows a

permanent thoroughbred sales facility, Ocala Breeders' Sales, to conduct intertrack wagering under certain conditions without the necessity of also operating a live race meet. This is the only off-site wagering facility authorized by law.

Section 550.002, Florida Statutes, defines intertrack wagering as "...wagers ... on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility." A guest track is defined as "...a track or fronton receiving or accepting an intertrack wager." Sections 550.3551 [transmission of racing and jai alai information; commingling of pari-mutuel pools], 550.615 [intertrack wagering], 550.625 [purses], and 550.6305 [ITW guest track payments] deal expressly with specific components of intertrack wagering.

### Cardrooms

Legislation enacted in 1996, s. 849.086, Florida Statutes, authorizes the operation of commercial "cardrooms" by persons holding a valid and active pari-mutuel permit. Cardrooms may only be operated at the same facility at which a permitholder is authorized to conduct pari-mutuel wagering. The statute establishes operational guidelines for cardrooms, as well as a taxation and licensing process.

In order for a cardroom license to be renewed, the applicant must have requested, as part of its annual pari-mutuel license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during the fiscal year in which the initial cardroom license was issued or the fiscal year immediately prior thereto. The annual cardroom license fee is \$1,000 for the first table and \$500 for each additional table to be operated at each facility.

### Alcoholic Beverage Sales at Pari-Mutuel Facilities

Section 565.02(5), Florida Statutes, authorizes a caterer at a pari-mutuel facility to obtain an alcoholic beverage license which allows the caterer to sell alcoholic beverages for on-premises consumption at the facility. Package sales of alcoholic beverages are not allowed under the conditions of this license. The caterer is allowed to sell alcoholic beverages during the period 10 days before pari-mutuel wagering events begin and ending 10 days after pari-mutuel wagering events are concluded.

## C. EFFECT OF PROPOSED CHANGES:

This bill creates the "Pari-Mutuel Consolidation Act of 2000" [Consolidation Act] and establishes the legislative intent to allow the industry to "participate in emerging technology and to consolidate live operations in overlapping market areas in order to better utilize and maintain facilities through economies of scale." The ability for a permitholder to merge live operations, close their existing facility, and conduct ITW at a smaller, perhaps more visible and convenient location, will reduce the permitholder's operating overhead considerably. In addition, it is possible that intertrack wagering activity will increase at the new ITW-only location due to a number of variables, e.g., convenience, ambiance, location, traffic.

### Consolidation of Pari-Mutuel Operations

This bill allows two or more same-class permitholders in overlapping market areas to consolidate live operations by mutual agreement, with one permitholder leasing the other permitholder's facility for the operation of its entire live meet. For purposes of this provision of the bill and s. 550.475, Florida Statutes, [authorization for lease arrangements] the bill

defines "same class" of permit for harness or standardbred permitholders to include thoroughbred permitholders. This provision will provide an opportunity for the one harness track in the state, Pompano Park, to consolidate or enter into a lease agreement with one of the nearby thoroughbred permitholders.

After consolidation, if a lessee permitholder has conducted a full schedule of live racing during the preceding year, the lessee permitholder may conduct intertrack wagering [ITW] at **either** the consolidated facility **or** at a separate ITW-only facility. The ITW-only facility may not operate within the market area of another same-class permitholder during that permitholder's live meet unless the ITW-only permitholder obtains written consent. Section 550.002(19), Florida Statutes, defines "market area" as an area within 25 miles of a permitholder's track or fronton. The statutes, however, also provide additional mileage restrictions for other specific situations. Further, since the possibility exists for a permitholder to cross a county boundary to site the new ITW-only facility, this subsection will prohibit the siting of an ITW-only facility in a county that has not voted to authorize pari-mutuel wagering or which has voted to no longer allow pari-mutuel wagering in the county.

The bill applies the provisions of the Consolidation Act to all consolidation operations, regardless of the date of consolidation. Therefore, in addition to prospective consolidated operations, these provisions allow those permitholders who are presently operating under more than one permit at a single facility to operate ITW-only facilities, e.g., Calder/Tropical, Dania Jai Alai/Summersport, etc.

Additionally, the bill allows two or more permitholders to form a business entity to operate one or more ITW-only facilities. Under this provision, for example, it appears that the jai alai permitholders operating in Broward and Dade Counties who presently operate two permits out of each facility, could further consolidate into one facility and operate three ITW-only facilities. That provision also prohibits anyone other than a pari-mutuel entity from owning, directly or indirectly, any interest in an ITW-only facility.

The bill limits the number of wagering locations/facilities to no more than the number which would be permissible if all valid permits were to operate live at separate facilities. The number of permitholders will, therefore, not increase; however, the actual number of wagering locations/facilities may increase above the number of facilities currently in existence.

The bill provides that a permitholder who has consolidated and is conducting its live performances at another permitholder's facility shall not pay taxes on live or intertrack handle at a rate which is higher than any other permitholder operating at the same consolidated facility. This provision does not, however, apply to a consolidation between thoroughbred permitholders. Since greyhound permitholders pay a uniform tax, it appears that the potential for a reduced tax rate provided by the Consolidation Act may only be available to lessee jai alai permitholders.

The definition for an "intertrack facility" as provided in this legislation means a "facility used to conduct intertrack wagering as defined in s. 550.002(17), Florida Statutes," and is also considered a guest track as defined in s. 550.002, Florida Statutes. ITW-only facilities may conduct intertrack wagering at any time on the same class of races or games as their permitholder and on any other event the permitholder would be able to accept intertrack wagering if they were operating live from the ITW-only facility. A wager at an ITW-only facility constitutes an intertrack wager as defined in s. 550.002, Florida Statutes.

The bill specifies that, except as otherwise provided in the bill, the ITW-only facilities are subject to the provisions of ss. 550.3551 [transmission of racing and jai alai information; commingling of pari-mutuel pools], 550.615 [intertrack wagering], 550.625 [purses], and 550.6305 [ITW guest track payments].

### Cardrooms

The bill amends s. 849.086(5), Florida Statutes, to specify that if more than one permitholder is operating at one facility, each of them must have applied for a license to conduct a full schedule of live racing in order to receive a cardroom license. Consolidated facilities presently are required to pay table and license fees for each permit operating at a single facility. Paragraph (d), however, is amended in this bill to apply the annual cardroom license fee to each facility, rather than each permitholder operating at a facility.

### Alcoholic Beverage Sales at Pari-Mutuel Facilities

Finally, the bill provides that the provisions of s. 565.02, Florida Statutes, shall also apply to each ITW-only facility. Section 565.02(5), Florida Statutes, authorizes the issuance of an alcoholic beverage license to caterers at pari-mutuel facilities. An alcoholic beverage license issued under the provisions of this section presumedly allows the sale of alcoholic beverages not only at any time the ITW-only facility is operating but also, for those facilities which will not operate year-round, beginning 10 days prior to operation and for 10 days following the conclusion of its operation. Caterers are authorized to sell alcoholic beverages for consumption on the licensed premises only.

## D. SECTION-BY-SECTION ANALYSIS:

### **Section 1. Creates s. 550.654, Florida Statutes, the "Pari-Mutuel Consolidation Act of 2000"**

Subsection (2) provides legislative intent to allow the industry to "participate in emerging technology and to consolidate live operations in overlapping market areas in order to better utilize and maintain facilities through economies of scale."

Subsection (3) allows two or more same-class permitholders in overlapping market areas to consolidate live operations by mutual agreement, with one leasing the other permitholder's facility for the operation of its entire live meet. For purposes of this subsection and s. 550.475, Florida Statutes, the term "same class" with respect to harness or standardbred permitholders is defined to include any horse track permitholder.

Subsection (4) requires the lessee permitholder to have conducted a full schedule of live racing or games during the preceding year in order to operate an ITW-only facility. This subsection also allows the lessee to conduct ITW at either the consolidated facility or at a separate intertrack facility within its original market area. The ITW facility may not operate within the market area of another same-class permitholder during that permitholder's live meet unless it obtains their written consent. Given the possibility that a permit could potentially relocate across a county boundary, this subsection contains language which requires pari-mutuel wagering to continue to be authorized in the county where the ITW-only facility is to be located. This language will prohibit the siting of an ITW-only facility in a county that has not voted to authorize pari-mutuel wagering or which has voted to no longer allow pari-mutuel wagering in the county.

Subsection (5) limits the number of wagering locations to no more than the number which would be permissible if all permitholders were to conduct live performances at their own facility.

Subsection (6) defines "intertrack facility" and provides that an ITW-only facility may conduct intertrack wagering, as defined in s. 550.002(17), Florida Statutes, at any time on the same class of races or games as their permitholder and on pari-mutuel events on which the permitholder would be able to accept ITW if they were conducting live operations at their intertrack facility. These ITW-only facilities are considered guest tracks as defined in s. 550.002, Florida Statutes, and wagers at the ITW-only facilities constitute an intertrack wager.

This subsection provides that, except as otherwise provided in this legislation, the provisions of ss. 550.3551 [transmission of racing and jai alai information; commingling of pari-mutuel pools], 550.615 [intertrack wagering], 550.625 [purses], and 550.6305 [ITW guest track payments] will apply to the ITW-only facilities.

Further, this subsection specifies that the provisions of s. 565.02, Florida Statutes, which authorize a caterer at a pari-mutuel facility to receive an alcoholic beverage license, apply to each ITW-only facility.

Subsection (7) provides that participating consolidation permitholders may form a business entity to operate one or more ITW-only facilities. The number of live and ITW-only facilities may not exceed the number of pari-mutuel facilities that could exist if all the permitholders were operating live at their own facilities. This subsection prohibits anyone other than a pari-mutuel entity from owning, directly or indirectly, any interest in an ITW-only facility.

Subsection (8) provides that a permitholder who has consolidated and is conducting its live performances at another permitholder's facility shall not pay taxes on live or intertrack handle at a rate which is higher than any other permitholder operating at the same consolidated facility. The bill provides that this subsection does not apply to a consolidation between thoroughbred permitholders. Further, since greyhound permitholders pay a uniform tax rate, it appears that only jai alai lessees will be able to take advantage of this provision of the bill.

Subsection (9) applies the provisions of this section to all consolidated operations, including those already in existence.

Subsection (10) allows permitholders to "deconsolidate" and begin live operations at another location.

## **Section 2. Amends s. 849.086(5)(b) and (d), Florida Statutes**

Paragraph (b) is amended to clarify that if more than one permitholder is operating at one facility, each of the permitholders must have applied for a license to conduct a full schedule of live racing in order to receive a cardroom license.

Paragraph (d) is amended to specify that the annual cardroom license fees applies to each facility, rather than each permitholder operating at a facility.

**Section 3.** The bill takes effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Greyhound permitholders pay a uniform tax rate, jai alai permitholders pay little tax due to the availability of tax credits, and thoroughbred permitholders are prohibited from receiving a reduced tax rate under the provisions of subsection (8). Therefore, any consolidation of operations is expected to have an insignificant fiscal impact on state revenue collections.

The bill provides that the annual cardroom license fees apply to each facility rather than each permitholder, thus reducing license and table fee revenue at the existing consolidated operations. Currently there are several permitholders that operate a cardroom at the same facility during different periods of the year. The Division of Pari-Mutuel Wagering estimates the potential negative impact to revenue collections from this provision of the bill to be approximately \$20,000 to \$30,000 annually.

2. Expenditures:

This legislation is anticipated to have an insignificant impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Participating pari-mutuel permitholders will benefit due to the decreased costs associated with operating an ITW-only wagering facility versus the significant costs associated with operating and maintaining a facility where live races or games occur. Further, the permitholder will then be able to sell the previously operated pari-mutuel facility or convert it to a more profitable use.

D. FISCAL COMMENTS:

Tax rates for some pari-mutuel permitholders may be reduced due to their consolidation of operations, thus further reducing tax collections to the state. It is possible, however, that tax collections due to intertrack wagering could increase due to the more favorable wagering locations afforded by this legislation. The extent to which these revenue collections may be diminished or increased are not, in our opinion, determinable.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

No rule-making authority is provided in this legislation.

C. OTHER COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Regulated Services adopted several amendments to this legislation and passed the bill 6 to 1, as a committee substitute. The amendments did the following:

- ▶ Allows harness tracks to consolidate or lease from thoroughbred tracks;
- ▶ Attempts to clarify that a new ITW-only facility cannot cross a county boundary and be sited in a county that has not authorized pari-mutuel wagering; would allow the facility to cross the county boundary if pari-mutuel wagering is allowed in that county;
- ▶ Provides that the lowest tax rate provision of subsection (8) does not apply to thoroughbreds; deletion of this language removed the negative fiscal impact of the bill; and
- ▶ Clarifies that two or more permitholders may combine operations at one facility.



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VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

Prepared by:

Staff Director:

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Janet Clark Morris

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Paul Liepshutz