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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS REGULATION
ANALYSIS**

BILL #: HB 1363
RELATING TO: Pari-Mutuel Wagering
SPONSOR(S): Representative(s) Fasano
TIED BILL(S): None.

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

- (1) BUSINESS REGULATION YEAS 7 NAYS 0
 - (2) FISCAL POLICY & RESOURCES
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill amends chapter 550, Florida Statutes, to allow a thoroughbred track which is not operating its scheduled race meet to receive and accept wagers on simulcasts of thoroughbred races from out-of-state horse tracks if the permitholder also receives and accepts wagers on all live thoroughbred races in this state and meets other criteria. Any such thoroughbred permitholder will also be required to pay 50 percent of the net income retained by them into its purse account for purses during its live racing meet.

The bill also establishes requirements on the rebroadcast of simulcasts and provides that the thoroughbred permitholder is prohibited from providing that signal to any permitholder, regardless of class, outside of its market area. The thoroughbred permitholder is, however, required to offer and rebroadcast all simulcast signals to any permitholder, regardless of class, within its own market area.

The bill also places restrictions on the guest permitholder within the thoroughbred permitholder's market area that receives the signal. If the thoroughbred simulcast signal is offered exclusively as an intertrack signal within the thoroughbred permitholder's market area, the guest permitholder can receive and accept wagers on the signal only if it also receives and accepts wagers on all thoroughbred races in Florida.

The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation anticipates that the bill will result in an indeterminate increase in tax revenue collections to the state.

The bill will take effect upon becoming a law.

[The Committee on Business Regulation adopted two amendments which are traveling with the bill.]

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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

Background

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. The pari-mutuel industry has historically been a highly regulated industry and the state has traditionally enforced a wide range of regulatory controls over the daily operations of pari-mutuel permitholders. This complicated set of laws and regulations has been primarily designed to protect the integrity and health of the pari-mutuel industry and, subsequently, the state revenues generated by wagering activities.

Over the past decade, numerous amendments to the pari-mutuel statutes have been adopted in efforts to mitigate the impact of this decline. Likewise, over the last decade there has been a steady decline in attendance, wagering handle, and tax collections. Total state revenue collections from all pari-mutuel operations decreased from \$105,074,018 in FY 1990-91 to an estimated \$34,138,558 million for FY 2000-01 and decreasing to \$33,599,491 for FY 2001-02.

Simulcast Restrictions

Section 550.3551(3), Florida Statutes, provides that in-state thoroughbred tracks may receive and take wagers on simulcasts of thoroughbred races conducted at out-of-state thoroughbred tracks during the Florida horse tracks scheduled race meet.

Subsection (5) prohibits a Florida permitholder [thoroughbred, greyhound or jai alai] from receiving broadcasts on races or games from an out-of-state permitholder unless the out-of-state permitholder holds the same type or class of permit, e.g., a thoroughbred track can receive thoroughbred races, a jai alai fronton can receive jai alai games, etc.

Sections 550.615 and 550.6305, Florida Statutes, authorize permitholders to transmit, receive, and wager on signals from any other class of permitholder within Florida. Therefore, the only means for a permitholder of one class, greyhound for example, to receive a signal of an out-of-state thoroughbred race, is by receiving it from an in-state thoroughbred permitholder via intertrack signal. This scenario has to be applied for all permitholders wishing to receive and accept wagers

on simulcast signals of a different class. In order to receive intertrack signals, Section 550.615, Florida Statutes, requires a permitholder to complete a full schedule of live racing in the preceding year. Additionally, Section 550.615, Florida Statutes, provides for restrictions on intertrack signals depending on the locations of the guest and host tracks, market areas of various tracks, as well as whether they are conducting their race meet. Market area is defined as an area within 25 miles of a permitholder's track or fronton. Depending on the restrictions, there are different factors to be considered for consent between the various permitholders.

Section 550.6305(9)(g), Florida Statutes, establishes statutory provisions for simulcasting by thoroughbred permitholders in the state and provides that a permitholder that accepts wagers on a simulcast signal must make the signal available to any other permitholder eligible to conduct intertrack wagering [under s. 550.615 – 550.6345]

If a thoroughbred permitholder accepts wagers on simulcasts received after 6:00 pm, the permitholder must make the signal available to any other permitholder eligible to conduct intertrack wagering including any qualifying quarter horse permitholder.

No thoroughbred permitholder is required to continue to rebroadcast a simulcast signal to an in-state permitholder if the average per performance gross receipts returned to the host permitholder over the preceding 30-day period were less than \$100. Receipt of rebroadcasts of thoroughbred simulcast signals are subject to the provisions of s. 550.615(4), Florida Statutes, which prohibits a permitholder from accepting intertrack wagers on the same class of race or game as is being conducted by a permitholder of the same type within a market area without written permission. As a further condition of accepting such signal, a guest track must accept intertrack wagers on all live races being conducted by all thoroughbred permitholders at that time.

There are no requirements for thoroughbred permitholders to place additional monies in purse accounts during simulcast performances outside of the meet period, because as previously stated, simulcast can only be conducted by thoroughbred permitholders during their racing meet.

C. EFFECT OF PROPOSED CHANGES:

Present law provides that in-state horse tracks may receive and take wagers on broadcasts of horse races conducted at out-of-state horse tracks during the Florida horse tracks scheduled race meet. This bill amends s. 550.3551(3), Florida Statutes, to allow a thoroughbred track which is not operating its scheduled race meet to receive and accept wagers on simulcasts of thoroughbred races from out-of-state thoroughbred tracks if the track also receives and accepts wagers on all live thoroughbred races in this state and:

- It is the only thoroughbred track in its market area;
- There are no other thoroughbred permitholders in the market area conducting a race meet;
or
- It has the permission of any other thoroughbred track in the market area, which is conducting its race meet.

If a thoroughbred permitholder elects to receive and take wagers on an out-of-state thoroughbred race during the period of time when it is not conducting its regular race meet, the permitholder is required to pay 50% of the net income retained from those wagers into its purse account.

This bill also amends subparagraph 1 of s. 550.6305(9)(g), Florida Statutes, to add a provision which prohibits any thoroughbred permitholder that accepts wagers on a simulcast signal directly from an out-of-state horse track when the Florida permitholder is not conducting its current race meet, from rebroadcasting the out-of-state race to permitholders [regardless of class] outside of its market area.

In addition, the permitholder is required, and has the exclusive right, to offer and rebroadcast all out-of-state signals to permitholders [regardless of class] within its own market area. Further when out-of-state races are exclusively offered to permitholders in the market area, the guest permitholder may receive and accept wagers on the out-of-state race only if it also receives and accepts wagers on all thoroughbred races in the state.

The fiscal impact on state revenue collections and expenditures is indeterminate.

The bill will take effect upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Section 550.3551(3)(a), (b), and (c), Florida Statutes, are redesignated as paragraphs (c), (d), and (e), respectively, with no substantive changes, and new paragraphs (a) and (b) are created as follows:

Section 550.3551(3)(a), Florida Statutes, provides that when a thoroughbred track is not conducting its current meet, it may receive and accept wagers on direct broadcasts of thoroughbred races conducted outside of Florida, if it receives and accepts wagers on all live thoroughbred races in this state and:

1. It is the only thoroughbred permitholder in its market area;
2. There are no thoroughbred permitholders within the market area conducting a race meet; or
3. It has the permission of any other thoroughbred permitholder in its market area, which is conducting its race meet.

Section 550.3551(3)(b), Florida Statutes, provides that a thoroughbred permitholder not conducting its current race meet, but receiving and accepting wagers on direct out-of-state broadcasts of thoroughbred races as authorized in paragraph (a), is required to pay into its purse account, 50 percent of net income retained by the permitholder on those wagers.

Section 2. Section 550.6305(9)(g), Florida Statutes, is amended to provide that if a thoroughbred permitholder accepts wagers on a simulcast signal during its race meet, it must make the signal available to any permitholder that is eligible to conduct intertrack wagering under the provisions of Sections 550.615-550.6345, Florida Statutes.

It further provides that any thoroughbred permitholder not conducting their current race meet, but accepting wagers on simulcast signals directly from outside of Florida as provided in Section 550.3551(3), Florida Statutes, may not rebroadcast (intertrack) those signals to permitholders outside of its market area. That permitholder is required to, and has the exclusive right to, offer and rebroadcast all simulcast signals to permitholders within its own market area. If simulcast thoroughbred signals are exclusively offered to the market area, the guest permitholder may receive and accept wagers on the intertrack of simulcast signals only if it also receives and accepts wagers on all thoroughbred races in Florida.

Section 3. The bill takes effect upon becoming law

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Division of Pari-mutuel Wagering, Department of Business and Professional Regulation, estimates the bill will likely result in an overall increase in simulcast and intertrack handle; however, the net increase in pari-mutuel handle, and resulting increase in tax revenue, cannot be ascertained.

2. Expenditures:

If an operating South Florida thoroughbred track gives permission to the other two thoroughbred tracks in its market area to receive the simulcast signal, there will be a need for Division presence at the simulcast tracks. However, these requirements can be satisfied with existing OPS personnel.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A determination of the potential increase/decrease in wagering activity and its ultimate affect on the private sector and on taxes to the state is difficult to ascertain.

1. It is likely there would be an increase in simulcast wagering activity by thoroughbred permitholders not conducting a live meet.

2. There may be a reduction in the amount of intertrack simulcast handle received by guests outside a thoroughbred permitholder's market area during the live racing meet. As stated in the proposed bill, guest permitholders within the market area of a thoroughbred permitholder not conducting a live race meet, must receive and accept rebroadcasts exclusively from the thoroughbred permitholder not conducting a live race meet.

3. Thoroughbred permitholders receiving simulcast signals outside their current race meet may result in an increase in the amount of intertrack simulcast handle rebroadcast to guests within the market area of the host.

4. Intertrack wagering on live thoroughbred racing may increase as part of the restriction imposed on guests receiving intertrack simulcast wagering from the thoroughbred permitholder not conducting a live meet. To be eligible, the guest track must have received and accepted wagers on all thoroughbred races in this state.

5. Thoroughbred-to-thoroughbred intertrack wagering may increase due to the restriction that to be eligible to receive simulcast signals outside of its meet period, a thoroughbred must have received and accepted wagers on all thoroughbred races conducted in Florida.

6. Intertrack simulcast wagering handle may decrease for thoroughbred permitholders conducting a live meet sending the signal out of the market area and within the market area of another thoroughbred.

7. The proposal may lead to a change in the business practices of thoroughbred permitholders conducting a live racing meet, compounding the difficulty in determining the impact.

D. FISCAL COMMENTS:

Under the proposed bill, thoroughbred permitholders would become eligible to receive interstate simulcast broadcasts outside its meet period. Such thoroughbred permitholders would then be required to, and have the exclusive right to, rebroadcast simulcast signals to other permitholders within the market area of the host. While this provides additional simulcast opportunities for many permitholders, it would also restrict intertrack opportunities for certain permitholders under existing law. Therefore, while it is likely that handle and associated state tax revenue would likely increase, the Division is unable to ascertain the magnitude of such increase.

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:

None.

C. OTHER COMMENTS:

Currently, according to the Department of Business and Professional Regulation, the Division of Pari-mutuel Wagering and the Office of the General Counsel devote an enormous amount of time and resources in attempting to fairly and accurately interpret and apply the laws governing pari-

mutuel wagering. The proposed bill will create market restrictions for jai alai and greyhound permitholders that wish to receive broadcasts of thoroughbred racing and may create a further conflict among all pari-mutuel permitholders.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Business Regulation, on April 12, 2001, adopted two amendments and reported the bill favorably, 7 Yeas and 0 Nays. The amendments do not have any fiscal impact on state revenue collections or expenditures and, by deleting Sections 1 and 2 of the bill, remove the fiscal impact associated with the original legislation.

Amendment #1 by Representative Fasano removed sections 1 and 2, relating to simulcasting of thoroughbred horse races, from the bill and inserted an amendment which provides that greyhound permitholders shall make greyhound adoption booths available when the permitholder is conducting live racing and provides that the permitholder may:

- provide information pamphlets and application forms for greyhound adoption to the public;
- provide information about greyhound adoption in their race programs and post adoption information at locations around the facility;
- indicate in the race program any greyhound that will be available for future adoption; and
- allow greyhounds that are available for adoption to be walked through the track facility and identified as available for adoption.

Amendment #2 by Representtaive Kyle also removed sections 1 and 2, relating to simulcasting of thoroughbred horse races, from the bill and inserted an amendment which provides that proceeds from charity day races must be donated to qualified beneficiaries to fund programs and operations within the state of Florida.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Staff Director:

Janet Clark Morris

M. Paul Liepshutz