

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SBs 1298 & 1326

SPONSOR: Regulated Industries Committee and Senators Geller and Silver

SUBJECT: Video Lotteries

DATE: March 6, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	RI	Favorable/CS
2.	_____	_____	ED	_____
3.	_____	_____	FT	_____
4.	_____	_____	AGG	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

I. Summary:

The bill:

- Provides definitions.
- Provides for video lottery games.
- Provides for pay out to players and distributions of net terminal income to state and local governmental entities, to pari-mutuel participants as purses for pari-mutuel events, and to pari-mutuel facilities operators.
- Establishes requirements of the Department of the Lottery relating to video lottery games.
- Prohibits play by minors.
- Provides for licensure of video lottery terminal retailers.
- Provides that the installation, operation, or use of a video lottery terminal on any property on which pari-mutuel operations were or would have been lawful under any county or municipal zoning ordinance as of July 1, 1997, does not change the character of the use of such property and cannot be prohibited on such property by any local zoning ordinance or amendments.
- Provides regulations on video lottery terminals.
- Provides for video lottery terminal training programs.
- Provides for administration of the Video Lottery Purse Trust Fund and for distributions from the Video Lottery Thoroughbred Trust Fund.
- Requires notice of the availability of assistance for compulsive gambling.
- Requires the Alcohol, Drug Abuse, and Mental Health Program Office within the Department of Children and Family Services to establish a program for treatment and prevention of problem and compulsive gambling.

The bill substantially amends the following sections of the Florida Statutes: 24.103, 24.105, and 212.02.

It also creates the following sections of the Florida Statutes: 24.125, 24.126, 24.127, 24.128, 24.129, 24.130, 24.131, 24.132, 24.133, 24.134, and an as yet unnumbered section.

II. Present Situation:

Video lottery terminals are currently prohibited.

III. Effect of Proposed Changes:

Section 1 amends s. 24.103, F.S., to provide definitions.

“Video lottery game” is defined as an electronically simulated game involving any element of chance that is played on a video lottery terminal that, upon insertion of cash, tokens, credits, or voucher, is available to play or simulate a lottery-type game, including, but not limited to, line-up games utilizing a video display and microprocessors, and in which, by means of an element of chance, the player may receive credits that can be redeemed for cash. Video lottery game also means an electronically simulated game involving elements of chance and skill that is played on a video lottery terminal that, upon insertion of cash, tokens, credits, or voucher, is available to play or simulate the play of traditional card games including, but not limited to, video poker, utilizing a cathode ray tube or video display screen and microprocessors, and in which the player may win credits that can be redeemed for cash. The term also includes a progressive game, which is any game in which a jackpot grows and accumulates as it is being played on a video lottery terminal, or on a network of video lottery terminals, and in which the outcome is randomly determined by the play of video lottery terminals linked by a central network. A video lottery terminal may use spinning reels or video displays, or both.

“Video lottery terminal vendor” is defined as any person approved by the department who provides the video lottery terminals to a video lottery retailer or computer functions related to video lottery terminals to the department.

“Net terminal income” means currency and other consideration placed into a video lottery terminal minus credits redeemed by players.

“Video lottery retailer” means any person who on July 1, 2001, possesses a pari-mutuel permit issued before that date pursuant to chapter 550, and who in the prior calendar year either has conducted a full schedule of live jai alai games or live greyhound, thoroughbred horse, or harness racing, as defined by s. 550.002(11), or is authorized to receive broadcasts of horseraces pursuant to s. 550.6308, F.S.

Section 2 amends s. 24.105, F.S., on powers of the Department of the Lottery, to create new requirements of the department to:

- Have in place the capacity to support video lottery games at facilities of video lottery retailers by October 1, 2002.

- Hear and decide promptly and in reasonable order all license applications or proceedings for suspension or revocation of licenses.
- Collect and disburse such revenue due the department as described in this chapter.
- Certify net terminal income by inspecting records, conducting audits, or any other reasonable means.
- Provide a list of approved vendors and maintain a current list of all contracts between video lottery terminal vendors and video lottery retailers.
- Approve an application as a video lottery retailer within 30 days after the receipt of the application.
- Not allow a terminal or device to be used for any lottery game which may be operated solely by the player without the assistance of the retailer, except authorized video lottery terminals operated pursuant to this chapter.

Section 3 creates s. 24.125, F.S., to authorize the department to make reasonable rules relating to:

- The regulation of video lottery retailers as pertains to video lottery products.
- Specifications for video lottery terminals to be approved and authorized as the department deems necessary to maintain the integrity of video lottery games and terminals. Initial rules sufficient to permit the operation of video lotteries and the licensing of video lottery retailers must be adopted no later than July 1, 2002. The department cannot provide for specifications which would have the result of reducing to fewer than four the number of video lottery terminal vendors who supply terminals which meet the specifications.
- The licensure and regulation of video lottery terminal vendors. The department cannot approve any person as a video lottery terminal vendor if such person has an interest in a video lottery retailer or a business relationship with a video lottery retailer other than as a vendor or lessor of video lottery terminals.

Section 4 creates s. 24.126, F.S., relating to prohibitions against sale of lottery tickets to minors. The bill provides that no person who is less than 18 years of age may play a video lottery game and requires all video lottery retailers to post a clear and conspicuous sign on each video lottery terminal containing a specified statement on this prohibition and stating that proof of age is required. Any person who violates these provisions commits a second-degree misdemeanor.

Section 5 creates s. 24.127, F.S., to provide for video lottery games. Video lottery games may only be offered by a video lottery retailer at its pari-mutuel facility. During any calendar year in which a video lottery retailer maintains video lottery terminals, the video lottery retailer must conduct a full schedule of live racing or games as defined in s. 550.002(11), F.S., or be authorized to receive broadcasts of horseraces pursuant to s. 550.6308, F.S. The department may waive these requirements upon a showing that the failure to conduct the games resulted from a natural disaster or other acts beyond the control of the permit holder. If the video lottery retailer fails to comply with the requirement to conduct a full schedule of races or games, the department must order the video lottery retailer to suspend its video lottery operation. The department may assess an administrative fine not to exceed \$5,000 per video lottery terminal, per day, against any video lottery retailer who fails to suspend its video lottery operation when ordered to suspend by the department. The department may enforce its order of suspension or any administrative fine

assessed in furtherance of the order as provided in s. 120.69, F.S. Each video lottery retailer must post a bond payable to the state in an amount determined by the department that is sufficient to guarantee payment to the state of revenue due in any payment period.

Each video lottery retailer must notify the department prior to operating video lottery games at the pari-mutuel facility.

To facilitate the auditing and security programs critical to the integrity of the video lottery system, the department is to have overall control of the entire system. Each video lottery terminal must be linked, directly or indirectly, to a computer system under the control of the department.

The department must determine, by rule, the method by which cash receipts will be electronically validated and redeemed.

Video lottery games may be played at an authorized video lottery retailer's pari-mutuel facility even if the retailer is not conducting a pari-mutuel event.

Video lottery games must pay out a minimum of 88 percent and no more than 99 percent of the amount of cash, tokens, credits, or vouchers put into a video lottery terminal. The department may permit the payment of a lesser percentage if requested by a video lottery retailer and the department determines that the payment of a minimum of 88 percent is not financially viable at the video lottery retailer's location and that the total amount of net revenue payable to the state will not be negatively impacted. Such percentages are to be measured on an annual basis.

Income derived from video lottery operations are not to be subject to the provisions of s. 24.121, F.S., which provides for allocation of revenues and expenditures of funds for public education. The allocation of net terminal income derived from video lottery games is to be as follows:

- Thirty-six percent to the Video Lottery Administrative Trust Fund of the department for transfer to the Public Education Capital Outlay and Debt Service Trust Fund.
- Two percent to the Video Lottery Administrative Trust Fund for transfer in equal shares to the counties in which the pari-mutuel facilities with video lottery terminals are located. If any pari-mutuel facility with video lottery terminals is located within an incorporated municipality, 25 percent of the equal share of the 2 percent otherwise to be transferred to the county in which such facility is located shall instead be transferred to such municipality.
- Two percent to the Video Lottery Administrative Trust Fund of the department for transfer to the Administrative Trust Fund established pursuant to s. 24.120, F.S.
- Eight percent to the Video Lottery Administrative Trust Fund of the department for transfer to the Video Lottery Purse Trust Fund to be distributed in accordance with s. 24.132, F.S.
- To the Video Lottery Administrative Trust Fund of the department for transfer to the Department of Children and Family Services, 0.25 percent for the establishment and administration of a treatment program for compulsive gambling.
- If the video lottery retailer holds a valid harness racing permit under chapter 550, F.S., 6 percent of its net terminal income shall be distributed by the video lottery retailer as

- purses for live performances conducted at the video lottery retailer's pari-mutuel facility in accordance with the provisions of chapter 550, F.S.
- If the video lottery retailer holds a valid jai alai permit under chapter 550, F.S., 6 percent of its net terminal income shall be distributed by the video lottery retailer as purses for live performances conducted at the video lottery retailer's pari-mutuel facility in accordance with chapter 550, F.S.
 - If the video lottery retailer holds a valid greyhound racing permit under chapter 550, 6 percent of its net terminal income shall be distributed by the video lottery retailer as purses for live performances conducted at the video lottery retailer's pari-mutuel facility in accordance with chapter 550, F.S.
 - To be retained by the video lottery retailer as compensation:
 - If a valid thoroughbred permitholder under chapter 550, F.S., 51.75 percent to be distributed as follows:
 - ❖ 3.3 percent shall be distributed for use as Florida thoroughbred breeders' and stallion awards pursuant to ss. 550.26165, F.S., and 550.2625, F.S., subject to the fee provided in s. 550.2625(3), F.S. From these funds, one-half is to be used for awards to owners of registered Florida-bred thoroughbred horses participating in prescribed thoroughbred stakes races, non-stakes races, or both, in accordance with a written agreement entered into by the permitholder, the Florida Thoroughbred Breeders' Association, and the Florida Horsemen's Benevolent and Protective Association, Inc., or the association representing a majority of the thoroughbred racehorse owners and trainers at the facility.
 - ❖ 0.25 percent shall be distributed to as provided by written agreement between the video lottery retailer and the Florida Horsemen's Benevolent and Protective Association, Inc., or the association representing a majority of the thoroughbred racehorse owners and trainers at the facility. All funds so distributed are to be used to fund equine drug and medication research or related equine research at the University of Florida, including capital improvements, and for medical, dental, surgical, financial, or retirement benefits for occupational licenses under chapter 550 who are employed in connection with the conduct of live thoroughbred racing in this state, but are not permitholders employees.
 - ❖ 96.45 percent shall be distributed as provided by written agreement between the video lottery retailer and the Florida Horseman's Benevolent and Protective Association or the association representing a majority of the thoroughbred racehorse owners and trainers at the facility. The agreement must consider the costs and expenses for capital improvements and operating costs of the video lottery retailer and purses to be paid on live performances and must be reasonable in accordance with industry standards.
 - If a valid holder of a permit other than a thoroughbred permit, 45.75 percent.
 - If the holder of a license issued pursuant to s. 550.6308, F.S., 51.75 percent to be distributed as follows:
 - ❖ 3.3 percent shall be distributed for use as Florida thoroughbred breeders' and stallion awards pursuant to ss. 550.26165 and 550.2625, F.S., subject to the fee provided in s. 550.2625(3), F.S.

- ❖ 96.7 percent shall be distributed as provided by written agreement between the video lottery retailer and the Florida Thoroughbred Breeders' Association. No video lottery retailer required to enter into such a contract shall be authorized to conduct video lottery games unless such contract is in effect. All funds not retained by the video lottery retailer are to be used exclusively for awards to thoroughbred breeders' and stallion awards pursuant to ss. 550.26165 and 550.2625, F.S., subject to the fee provided in s. 550.2625(3), F.S.; for general promotion of the industry; and for the University of Florida for the purpose of funding the operations of the Division of Pari-Mutuel Wagering laboratory, and for the College's Equine Department for the purchase of equipment and supplies and for equine research.

The allocation must be made weekly. Amounts to be paid into the Video Lottery Administrative Trust Fund must be remitted to the department by electronic transfer within 24 hours after the allocation is determined.

If live meets were conducted at the pari-mutuel facility of the video lottery retailer during the weekly period for which the allocation is made, the portion of the allocation to be distributed as purses must be paid as purses for those live meets. If no live meets were conducted at the pari-mutuel facility during the weekly period for which the allocation is made, the distribution of purse money shall be made during the next ensuing meet following the weekly period in which the net terminal income is earned. The interest income earned on funds required to be distributed as purses prior to their distribution as purses shall be distributed by the video lottery retailer as purses for live performances conducted at the video lottery retailer's pari-mutuel facility in accordance with chapter 550, F.S.

Any person who, with intent to do so, manipulates or attempts to manipulate the outcome, payoff, or operation of a video lottery terminal by physical or electronic tampering or other means commits a third-degree felony.

Notwithstanding s. 24.115, F.S., on payment of prizes, each video lottery retailer is responsible for payment of video lottery prizes.

In any area or room in a facility in which a video lottery terminal is placed, the video lottery retailer must also place video monitors displaying the live races or games of that facility, if such are being conducted, or, if no live races or games are being conducted, displaying the available simulcast races or games. In each such area or room, the video lottery retailer shall also provide a means by which patrons may wager on pari-mutuel activity.

Section 6 creates s. 24.128, F.S., to provide for licensure of video lottery terminal retailers. Video lottery terminal vendors are to be licensed by the department by July 1, 2002, and, by October 1, 2002, the department must adopt rules governing licensure. The department cannot license any person as a video lottery terminal vendor if the person has an interest in a video lottery retailer or a business relationship with a video lottery retailer other than as a vendor or lessor of video lottery terminals.

Section 7 creates s. 24.129, F.S., relating to local zoning of pari-mutuel facilities, providing that the installation, operation, or use of a video lottery terminal on any property on which pari-mutuel operations were or would have been lawful under any county or municipal zoning ordinance as of July 1, 1997, does not change the character of the use of such property and cannot be prohibited on such property by any local zoning ordinance or amendments.

Section 8 creates s. 24.130, F.S., to provide regulations on video lottery terminals. Video lottery terminals cannot be offered for use or play in this state unless approved by the department. Video lottery terminals approved for use must:

- Be protected against manipulation to affect the random probabilities of winning plays.
- Have one or more mechanisms that accept coins, currency, tokens, or vouchers in exchange for game credits. The mechanisms must be designed to prevent players from obtaining credits by means of physical tampering.
- Be capable of suspending play until reset at the direction of the department as a result of physical tampering.
- Be capable of being linked to the department's central computer communications system for the purpose of auditing the operation, financial data, and program information as required by the department.

Section 9 creates s. 24.131, F.S., to require video lottery terminal training programs. Every licensed video lottery terminal vendor must submit a training program for the service and maintenance of such terminals and equipment for approval by the department. The training program must include an outline of the training curriculum, a list of instructors and their qualifications, a copy of the instructional materials, and the dates, times, and location of training classes. No service and maintenance program may be held unless approved by the department.

Every video lottery terminal service employee must complete the requirements of the manufacturer's training program before the employee performs service, maintenance, or repair on video lottery terminals or video lottery terminal associated equipment. Upon the successful completion by a service employee of the training program, the department must issue a certificate authorizing the employee to service, maintain, and repair video lottery terminals and video lottery terminal associated equipment. No certificate of completion may be issued to any video lottery terminal service employee until the department has ascertained that the employee has completed the required training program. Any person certified as a video lottery terminal service employee must pass a background investigation conducted under the rules of the department. The department may revoke certification upon finding a video lottery terminal service employee in violation of any provision of this chapter or a department rule.

The department is authorized to adopt rules regarding the training, qualifications, and certification of video lottery terminal service employees.

Section 10 creates s. 24.132, F.S., to provide for the administration of the Video Lottery Purse Trust Fund. The section provides for distributions from the trust fund as follows:

- Fifty-eight percent of the proceeds of the Video Lottery Purse Trust Fund shall be transferred to the Video Lottery Thoroughbred Trust Fund.

- Forty-two percent of the proceeds of the Video Lottery Purse Trust Fund shall be distributed to pari-mutuel permitholders to be distributed as purses at their respective pari-mutuel facilities as follows:
 - Eight percent shall be distributed to holders of valid harness racing permits.
 - Seven percent shall be distributed to holders of valid jai alai permits.
 - Twenty-seven percent shall be distributed to holders of valid greyhound racing permits.

Each permitholder entitled to receive distributions is to receive a percentage of the amount to be distributed which is determined by dividing the amounts paid in purses by such permitholder during the state fiscal year 2000-2001 by the amount of purses paid by all such permitholders statewide during the state fiscal year 2000-2001.

All proceeds distributed under this section are in addition to and supplement the other funds set forth in this chapter for use as purses, awards, and, in the case of jai alai, player compensation.

Of amounts to be distributed pursuant to this section and s. 24.127(7)(h) to persons holding valid greyhound racing permits, 10 percent of such sums shall be distributed as additional purses on all live races at each facility to Florida-bred greyhounds in a manner similar to the distribution of regular purses and in accordance with rules adopted by the division.

Of amounts to be distributed pursuant to this section and s. 24.127(7)(f) to persons holding valid harness racing permits, 6.6 percent of such sums shall be distributed for payment of breeders' awards, stallion awards, and stallion stakes, and for additional expenditures, including, but not limited to, medical, dental, surgical, life, funeral, and disability insurance and retirement benefits for occupational licensees who work at tracks in this state in which harness racing is conducted, pursuant to ss. 550.26165 and 550.2625. The Florida Standardbred Breeders and Owners Association may, in accordance with s. 550.2625(4), F.S., deduct a fee for administering the payment of awards and for general promotion of the industry.

The department is authorized to adopt rules to provide for the equitable distribution of funds by permitholders for purses, awards, or jai alai player compensation, in accordance with the provisions of this section.

Section 11 creates s. 24.133, F.S., to provide for distributions from the Video Lottery Thoroughbred Trust Fund as follows:

- 6.6 percent for use as Florida thoroughbred breeders' and stallion awards pursuant to ss. 550.26165 and 550.2625, F.S., subject to the fee provided in s. 550.2625(3), F.S.
- The remainder shall be divided proportionally among the thoroughbred permitholders conducting live races for use as purses based upon a formula determined by dividing the amounts paid in purses by such thoroughbred permitholder during the prior state fiscal year by the amount of purses paid by all such thoroughbred permitholders statewide during the prior state fiscal year. However, 8.5 percent of the funds must be used for Florida owners' awards pursuant to s. 550.26225(2)(e), F.S., unless agreed otherwise in writing between the Florida Thoroughbred Breeders' Association and the Florida

Horsemen's Benevolent and Protective Association or the association representing a majority of the thoroughbred racehorse owners and trainers at that location.

Section 12 creates s. 24.134, F.S., to provide for a notice of availability of assistance for compulsive gambling. The owner of each facility at which video lottery games are conducted, pursuant to the provisions of chapter 24, must post signs with the statement "IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE. CALL 1-800-426-7711." Such signs shall be posted within 50 feet of each entrance and exit and within 50 feet of each credit location within the facility. Each pari-mutuel facility licensee, who operates as a video lottery retailer, shall print the statement "IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE. CALL 1-800-426-7711" on all daily racing programs provided by the licensee or its lessees to the general public.

Section 13 amends s. 212.02, F.S., which provides definitions relating to taxes, to exclude from the definition of "coin-operated amusement machine" a video lottery terminal approved pursuant to chapter 24, F.S.

Section 14 creates a compulsive gambling program. The Alcohol, Drug Abuse, and Mental Health Program Office within the Department of Children and Family Services is directed to establish a program for public education, awareness, and training regarding problem and compulsive gambling and the treatment and prevention of problem and compulsive gambling. The program shall include:

- Maintenance of a compulsive gambling advocacy organization's toll-free problem gambling telephone number to provide crisis counseling and referral services to families experiencing difficulty as a result of problem or compulsive gambling.
- The promotion of public awareness regarding the recognition and prevention of problem or compulsive gambling.
- Facilitation, through inservice training and other means, of the availability of effective assistance programs for problem and compulsive gamblers, of all ages, and family members affected by problem and compulsive gambling.
- Studies to identify adults and juveniles in this state who are, or who are at risk of becoming, problem or compulsive gamblers.

Section 15 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 24.1121(7), F.S., provides for a pay out to video lottery game players of a minimum of 88 percent and no more than 99 percent of the amount wagered. As such, the average player will lose between 1 and 12 percent.

As to the net terminal income after pay out to players, the bill provides for a distribution of 40.25 percent to governmental entities, as is discussed below, with the remainder going to pari-mutuel permitholders and participants.

C. Government Sector Impact:

Section 24.1121(8)(a), (b), (c), and (e), F.S., provide for distributions of 40.25 percent of the net terminal income to governmental entities as follows:

- Thirty-six percent to the Video Lottery Administrative Trust Fund for transfer to the Public Education Capital Outlay and Debt Service Trust Fund.
- Two percent to the Video Lottery Administrative Trust Fund for transfer to local governments in which pari-mutuel facilities are located.
- Two percent to the Video Lottery Administrative Trust Fund for transfer to the Administrative Trust Fund for Department of Lottery expenses.
- To the Video Lottery Administrative Trust Fund for transfer to the Department of Children and Family Services, 0.25 percent for the establishment and administration of a treatment program for compulsive gambling.

The Office of Program Policy Analysis and Governmental Accountability (OPPAGA) just released a report on the lottery in which it examined the possibility of increasing lottery revenue using video lottery terminals. Justification Review, Sale of Lottery Products Program, Department of the Lottery, Report No. 02-11, February 2002, Office of Program Policy Analysis and Governmental Accountability. OPPAGA determined that using video lottery terminals, potential recurring transfers to education range from \$641 million to \$1 billion per year.

VI. Technical Deficiencies:

The bill provides for distributions of net terminal income of 40.25 percent to governmental entities; 14 percent to purses, directly or indirectly; and either 51.75 percent or 45.75 percent to

the pari-mutuel facilities for distribution. The first two percentages total 54.25 percent. Adding the 45.75 percent to the facilities totals 100 percent. Adding the 51.75 percent distribution to the facilities puts the total distribution to 106 percent of net terminal income.

VII. Related Issues:

In its study, OPPAGA concluded that new games that attract new payers, such as video lottery terminals, have the greatest potential to substantially increase revenues. *Id.*, page 35. However, OPPAGA also determined that they have some of the highest social costs of all lottery games. The report states that “Even if the Legislature limited [video lottery terminals] to pari-mutuel facilities or liquor licensees, this would still represent a significant expansion of gambling in Florida.” OPPAGA noted the following disadvantages:

- Because of its rapid play style, it may be more addictive than other lottery games.
- Because of its rapid play style, it could be regressive.
- The state’s legal position in relation to Native American gambling in Florida might materially change should video lottery be permitted, which might ultimately increase casino style gambling on Native American lands in Florida.
- It would represent a substantial change for gambling in Florida by permitting casino-style lottery games.
- It would require legislative changes to legalize player-activated terminals in Florida.

As reported in the Tallahassee Democrat, a recent study by the University of Florida determined that Florida has a gambling problem. Mike Branom, *Study: State has a hefty gambling problem* Tallahassee Democrat, February 26, 2002. According to the study, Floridians are more than twice as likely to be at risk for developing gambling problems as people nationwide; Florida has more than double the percentage of problem and compulsive gamblers as the national average; and a greater population of state residents currently experience gambling problems.

The bill contains provisions relating to three trust funds. There are no Senate Bills to create these trust funds, however, the Video Lottery Administration Trust Fund is created in HB 1499; the Video Lottery Thoroughbred Trust Fund is created in HB 1501; and the Video Lottery Purse Trust Fund is created in HB 1503.

VIII. Amendments:

None.