

# 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.)

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Prepared By: Judiciary Committee

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BILL: CS/CS/SB 1174

SPONSOR: Judiciary Committee, Regulated Industries Committee and Senator Jones

SUBJECT: Pari-mutuel Wagering

DATE: April 25, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Cibula</u>	<u>Maclure</u>	<u>JU</u>	<u>Fav/CS</u>
3.	<u>_____</u>	<u>_____</u>	<u>GE</u>	<u>Withdrawn</u>
4.	<u>_____</u>	<u>_____</u>	<u>GA</u>	<u>Withdrawn</u>
5.	<u>_____</u>	<u>_____</u>	<u>WM</u>	<u>_____</u>
6.	<u>_____</u>	<u>_____</u>	<u>RC</u>	<u>Withdrawn</u>

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## I. Summary:

The committee substitute:

- Creates chapter 551 of the Florida Statutes to authorize slot machine gaming in Miami-Dade and Broward Counties if approved by a majority of the voters in those counties;
- Provides for a central control computer run by the Division of Pari-mutuel Wagering (division) which all slot machines are able to communicate with for purposes of auditing and other financial information;
- Provides for an independent testing laboratory to test the slot machines;
- Defines slot machine revenues as the total of all cash and property received by the slot machine licensee from slot machine gaming operations less the amount of cash, cash equivalents, credits, and prizes paid to winners of slot machine gaming;
- Enumerates the powers and duties of the division to regulate slot machine gaming;
- Provides for an initial license fee of \$1 million and an annual license fee of \$1,000 per slot machine to be paid thereafter;
- Provides a tax rate of 30 percent on slot machine revenues of \$100 million or less; 32.5 percent on slot machine revenues of greater than \$100 million but less than or equal to \$200 million; and 35 percent on all revenue greater than \$200 million;
- Requires taxes on slot machine revenues to be collected on a daily basis;
- Imposes a \$500 per slot machine annual impact fee to reimburse school districts for increased costs resulting from slot machines;
- Provides for payment of taxes, fees, and fines by electronic transfer;
- Requires occupational licenses for licensed individuals and entities licensed under the chapter;

- Requires professional occupational licenses for persons, proprietorships, partnerships, corporations, or other entities that manage, oversee, or control the daily operations of the gaming operations;
- Requires business occupational licenses for any slot machine management company or business associated with slot machine gaming, or a person who manufactures, distributes, or sells slot machines, slot machine paraphernalia, or other associated equipment;
- Prohibits certain business relationships between division employees and licensees;
- Prohibits revenue sharing between a manufacturer or distributor of slot machines and a slot machine licensee;
- Prohibits certain acts involving false statements and disclosures in reports or applications and provides an administrative fine or civil penalty of up to \$10,000;
- Provides for an administrative fine or civil penalty of up to \$25,000 for persons who intentionally exclude or take action to exclude anything from the computation of revenues;
- Excludes from the slot machine facilities violators of the provisions of the act;
- Prohibits persons under the age of 21 from playing or being employed at a slot machine facility;
- Prohibits complimentary alcoholic beverages from being served to patrons;
- Prohibits automated teller machines on the property of a slot machine licensee;
- Provides the gaming area may be open 365 days a year for 16 hours per day;
- Provides for a Compulsive Gambling treatment program;
- Provides for a catering license;
- Requires pari-mutuels in Miami-Dade County to bear the cost of future referendums on whether to authorize slot machines in Miami-Dade County pari-mutuel facilities;
- Removes the discretion of Miami-Dade County to determine if or when a referendum may be held;
- Provides for rulemaking; and
- Requires the division to maintain accurate records and statistics on injuries to greyhounds; and
- Requires the division to maintain records of the disposition of greyhounds that participate in racing.

This committee substitute creates the following sections of the Florida Statutes: 551.101, 551.102, 551.103, 551.104, 551.105, 551.106, 551.107, 551.108, 551.109, 551.110, 551.111, 551.112, 551.113, 551.114, 551.116, 551.117, 551.118, 551.119, 551.120, and 551.121. The committee substitute also substantially amends section 550.2415, Florida Statutes.

## **II. Present Situation:**

### **Slot machines**

Slot machines are illegal in Florida as provided under ch. 849, F.S. Section 849.16(1), F.S., defines a slot machine as any machine or device:

that is adapted for use in such a way that, as a result of the insertion of any piece of money, coin, or other object, such machine or device is caused to operate or

may be operated and if the user, by reason of any element of chance or of any other outcome of such operation unpredictable by him or her, may:

(a) Receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade; or

(b) Secure additional chances or rights to use such machine, apparatus, or device, even though it may, in addition to any element of chance or unpredictable outcome of such operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.<sup>1</sup>

#### **Amendment 4**

However, a constitutional amendment authorizing Miami-Dade and Broward counties to hold referenda to determine if slot machines should be allowed in existing, licensed pari-mutuel facilities passed by a narrow margin in the November 2004 General Election. The amendment permits the Legislature to tax the slot machine revenues and requires that those taxes supplement public education statewide.<sup>2</sup> The referenda held March 8, 2005, passed in Broward County but failed in Miami-Dade County.

There are 4 existing pari-mutuel facilities in Broward County:

Hollywood Greyhound, located on approximately 50 acres;

Gulfstream Park, located on approximately 240 acres;

Dania Jai Alai, located on approximately 47 acres; and

Pompano Harness Track, located on approximately 180 acres.

#### **Electronic Management of Slot Machines**

A “Central Control Computer” is a central system under the control of the state in which the accounting data, security exception reports, and software verification can be initiated. This includes the ability to manually or automatically disable gaming devices based on automatic triggers or an event.<sup>3</sup>

Central Control computers first started in 1989 in South Dakota as a response to a highly regulated distributed gaming network across the state. Oregon was the first state to go online, which allowed every slot machine to connect in real time. Five states that have racinos currently have a Central Control Computer System of some sort: West Virginia, Rhode Island, Delaware, New Mexico, and Maine.<sup>4</sup> Pennsylvania has also provided for one in its legislation for slot machines.<sup>5</sup>

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<sup>1</sup> Section 849.16(1), F.S.

<sup>2</sup> Amendment 4, at <http://election.dos.state.fl.us/initiatives/fulltext/30910-2.htm>.

<sup>3</sup> Information provided in a report from Gaming Laboratories International, presented to the Florida Senate Regulated Industries Committee, March 29, 2005.

<sup>4</sup> *Id.*

<sup>5</sup> Title 4 Pa. Cons. Stat. Ann. s. 1103 (2004).

An “independent test laboratory” gives regulators of slot machines the ability to rely on an independent party to test slot machine equipment for assurance that the machines are in compliance with any technical standards the state has enacted.<sup>6</sup>

### **Local Agreements**

Each of the four pari-mutuel facilities have entered into agreements with Broward County to assist in defraying the cost of local government impacts. The facilities have agreed to pay \$625,000 to the county no later than September 30, 2005. The facilities shall also make a monthly payment of 1.5 percent of the cumulative amounts of all gross slot revenues generated for each and every slot machine until gross slot revenues reach \$250 million on an annual basis.<sup>7</sup>

### **Indian Gaming**

There are currently seven Florida Tribal casinos, including two recently opened Hard Rock casinos in Hollywood and Tampa, offering a variety of poker games and electronic bingo. Information regarding the revenues generated by these tribes is unavailable, but revenue estimates have been released on a regional basis by the Indian Gaming Commission. Florida falls into Region VI, which includes Alabama, Connecticut, Florida, Louisiana, Mississippi, North Carolina, and New York. There are 24 Indian Gaming Operations in this region with gaming revenues at over \$4 billion for Fiscal Year 2003-04. These revenues are untaxed by the state.<sup>8</sup>

Congress passed the Indian Gaming Regulatory Act of 1988 (IGRA)<sup>9</sup> in order to provide a statutory basis for the operation and regulation of gaming by Indian tribes.<sup>10</sup> The act permits states to determine the scope and extent of tribal gaming through tribal-state compacts for Class III gaming and gives the tribes regulatory authority over Class I and II gaming.

Each of the three classes of games provided in the IGRA has different regulatory schemes. Class I gaming is defined as traditional Indian gaming and social gaming for minimal prizes.<sup>11</sup> Regulatory authority over Class I gaming is vested exclusively in tribal governments.<sup>12</sup>

Class II gaming includes bingo and card games. Bingo is defined as a game of chance (whether or not electronic, computer, or other technological aids are used) and, if played in the same location as bingo, includes pull-tabs, punchboards, tip jars, instant bingo, and other games similar to bingo. Card games are defined as those that are explicitly authorized by the laws of the

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<sup>6</sup> *Supra* note 3 at 1.

<sup>7</sup> “Gross slot revenues” are defined in the agreement as the total of wagers received by a slot machine less the sum of: (1) cash or cash equivalents paid out to patrons as a direct result of playing a slot machine which are paid to patrons either manually or paid out by the slot machine; and (2) cash paid to purchase annuities to fund prizes payable to patrons over a period of time as a direct result of playing a slot machine; and (3) the cost of any personal property distributed to a patron as the direct result of playing a slot machine, which does not include travel expenses, food refreshments, lodging or services.

<sup>8</sup> Indian Gaming Commission website, <http://www.nigc.gov/nigc/index.jsp>.

<sup>9</sup> 25 U.S.C. 2701, *et seq.*

<sup>10</sup> *Seminole Tribe of Florida v. State of Florida*, 517 U.S. 44 (1996).

<sup>11</sup> 25 U.S.C. s. 2706(6).

<sup>12</sup> 25 U.S.C. s. 2710(a)(1).

state or are not explicitly prohibited by the state. Slot machines or electronic facsimiles of any game of chance are specifically excluded from the definition of Class II games.<sup>13</sup>

Class III gaming includes all forms of gaming that are neither Class I nor II.<sup>14</sup> These games include casino games such as roulette, craps, and keno, slot machines, banking card games, any sports betting and pari-mutuel wagering, and lotteries.<sup>15</sup>

Before a tribe may lawfully conduct Class III gaming, the following conditions must be met: (1) the particular form of Class III gaming that the tribe wants to conduct must be permitted in the state in which the tribe is located; (2) the tribe and the state must have negotiated a compact that has been approved by the Secretary of the Interior, or the Secretary must have approved regulatory procedures; and (3) the tribe must have adopted a tribal gaming ordinance that has been approved by the Indian Gaming Commission or its chairman.<sup>16</sup>

The compact may contain any subjects directly related to the operation of gaming activities. A state or political subdivision does not have authority to impose taxes, fees, charges, or other assessments upon tribes that seek to operate Class III gaming, and federal law prohibits a state from refusing to negotiate based on the lack of authority in such state, or its political subdivision to, imposing a tax, fee, charge, or other assessment.

A tribe may agree to pay assessments to a state or a political subdivision to defray the costs of state regulation of its Class III gaming activities and may agree to a payment in lieu of taxes to the state in amounts comparable to amounts assessed by the state for comparable activities.<sup>17</sup> Amendment 4, codified as s. 23, Art. X, State Const., authorizes Miami-Dade and Broward counties to hold referenda to determine whether slot machines should be allowed in existing, licensed pari-mutuel facilities. The referenda held March 8, 2005, passed in Broward County but failed in Miami-Dade County.

In addition to holding a referendum, the amendment provides that the Legislature:

- shall adopt legislation implementing this section and having an effective date no later than July 1, of the year following voter approval of the amendment. The legislation shall authorize agency rules for implementation, and may include provision for the licensure and regulation of slot machines;
- may tax slot machine revenues, and any such taxes must supplement public education funding statewide.

### **III. Effect of Proposed Changes:**

The committee substitute creates ch. 551, F.S., to implement Amendment 4 to the State Constitution, which was adopted in November 2004, and authorized the use of slot machines in

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<sup>13</sup> 25 U.S.C. s. 2703(7).

<sup>14</sup> 25 U.S.C. s.2703(8).

<sup>15</sup> 25 C.F.R. s. 502.4.

<sup>16</sup> 25 U.S.C. s. 2710(d).

<sup>17</sup> *Id.*

certain pari-mutuel facilities in Miami-Dade and Broward Counties if approved by referendum in each county.

### **Definitions**

Section 551.102, F.S. provides the following definitions:

- “Central control computer” means a central site computer controlled and accessible by the Division of Pari-mutuel Wagering (division) to which all slot machines communicate for the purpose of auditing capacity; real-time information retrieval of the details of any financial event that occurs in the operation of a slot machine, including, but not limited to, coin in, coin out, ticket in, ticket out, jackpots, machine door openings and power failure; and remote machine activation and disabling of slot machines.
- “Designated slot machine gaming area” means the area of an eligible facility, which may include any addition, alteration, or new structure, located on the premises described in the pari-mutuel permit issued by the division for the conduct of pari-mutuel wagering, in which slot machine gaming may be conducted in accordance with the provisions of this chapter.
- “Distributor” means any person that sells, leases, or offers or otherwise provides, distributes, or services any slot machine or associated equipment for use or play of slot machines in this state. A manufacturer may be a distributor within this state.
- “Division” means the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.
- “Eligible facility” means any existing licensed pari-mutuel facility located in Miami-Dade County or Broward County at the time of adoption of s. 23, Art X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003 and approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county.
- “Independent testing laboratory” means a laboratory of national reputation that is demonstrably competent and qualified to scientifically test and evaluate slot machines for compliance with this chapter and to otherwise perform the functions assigned to it in this chapter. An independent testing laboratory shall not be owned by a licensee and shall be determined from a list of one or more laboratories approved by the division.
- “Manufacturer” means any person who manufactures, builds, rebuilds, fabricates, assembles, programs, designs, or otherwise makes modifications to any slot machines in this state for gaming purposes. A manufacturer may be a distributor within the state.
- “Progressive system” means a computerized system linking slot machines in one or more licensed facilities within this state and offering one or more common progressive payouts based on the amounts wagered.
- “Slot machine” means, for purposes of this chapter, any mechanical or electrical contrivance, terminal, machine, or other device which upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash,

- billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from machine or manually. A slot machine may utilize spooning reels or video displays or both; may or may not dispense coins, tickets, or tokens to winning patrons; or may use an electronic credit system for receiving wagers and making payouts.
- “Slot machine license” means a license issued by the division, authorizing an eligible facility to place and operate slot machines as required by laws of this chapter and the rules.
  - “Slot machine licensee” means an eligible facility that holds a slot machine license.
  - “Slot machine operator” means a person employed or contracted by the owner of an eligible facility to conduct slot machine gaming at that eligible facility.
  - “Slot machine owner” means a person who holds a material interest in the slot machines.
  - “Slot machine revenues” means the total of all cash and property received by the slot machine licensee from slot machine gaming operations less the amount of cash, cash equivalents, credits, and prizes paid to winners of slot machine gaming.

### **Powers and duties**

Section 551.103, F.S., provides for powers and duties of the division to adopt rules necessary to implement, administer, and regulate slot machine gaming. The rules shall include:

- Procedures for applying for a license and renewal of a license;
- Procedures for establishing technical requirements in addition to the qualifications which shall be necessary to receive a slot machine license or slot machine occupational license;
- Procedures relating to slot machine revenues, including verifying and accounting for such revenues, auditing, and collecting taxes and fees consistent with this chapter;
- Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to slot machines through the central control computer;
- Procedures for requiring each licensee at his or her own cost and expense to supply the division with a bond with the penal sum of \$2 million payable to the Governor and his or her successors in office for the licensee’s first year of slot machine operations; and thereafter, the licensee shall file a bond with the penal sum as determined by the division pursuant to rules promulgated to approximate anticipated state revenues from the licensee’s slot machine operations;
- Procedures for requiring licensees to maintain specified records and submit any data, information, record, or report, including financial and income records, required by this chapter or determined by the division to be necessary to the proper implementation and enforcement of this chapter;
- Procedures for requiring that the payout percentage of a slot machine shall be no less than 85 percent per facility.

The committee substitute allows the division to conduct administrative and criminal investigations of the chapter or any other criminal violations that occur on the slot machine facility. It gives the division and its employees and agents law enforcement powers under ss. 943.04 and 943.10, F.S.

It gives the division unrestricted access to the slot machine licensee facility at all times and shall require each licensee to strictly comply with the business transaction laws of the state.

It allows the division to:

- Inspect and examine premises where slot machines are offered for play;
- Inspect slot machines and related equipment and supplies;
- Collect taxes, assessments, fees, and penalties; and
- Deny, revoke, suspend, or place conditions on a licensee who violates the provisions of the chapter and rules.

It provides that the division shall revoke or suspend the license of a person who is no longer qualified or who after receiving a license is found to have been unqualified at the time of application.

### **License to conduct slot machine gaming**

Section 551.104, F.S., provides that a license shall be issued to conduct slot machine gaming after the division has investigated the applicant, and there has been a finding that the applicant is qualified, the application is complete, and the fee has been paid.

It requires that the voters of the county where an applicant's facility is located must have authorized slot machines within the existing pari-mutuel facilities before an application may be approved.

It provides that a slot machine license may be issued only to a licensed pari-mutuel permit holder, and slot machine gaming may only be conducted at the same facility where the permitholder is authorized to conduct pari-mutuel activities.

It provides conditions to licensure that require the applicant:

- Continue to be in compliance with the chapter;
- Continue to be in compliance with ch. 550, F.S., where applicable, and maintain the pari-mutuel permit and license in good standing pursuant to the provisions of ch. 550, F.S.;
- Conduct no fewer than the greater number of live races or games that were conducted at that pari-mutuel facility in calendar year 2002 or calendar year 2003;
- Upon approval of any changes relating to the pari-mutuel permit by the division, be responsible for providing appropriate current and accurate documentation on a timely basis to the division in order to continue the slot machine license in good standing;
- Allow unrestricted access and right of inspection by the division to facilities of the licensee where activity relative to the conduct of slot machine gaming is conducted;
- Submit a security plan, including a slot machine floor plan, location of security cameras, and the listing of security equipment which shall be capable of observing and electronically recording activities being conducted in the designated slot machine gaming area; and
- Upon licensure, to use the Internet-based job-listing system of the Agency for Workforce Innovation when advertising employment opportunities.



Additionally, this section provides that a slot machine license is not transferable and that a slot machine licensee may amend its pari-mutuel performance dates.

### **License renewal**

Slot machine licenses are to be renewed annually. The license shall be renewed if the division determines the application is complete, the qualifications have been met, and the fee has been paid.

### **License fee; machine fee; tax rate**

Section 551.106, F.S., requires a licensee to pay the division an initial license fee of \$1 million for the first year of operation and a \$1,000 annual license fee per slot machine. The payments are required to be made directly to the Pari-mutuel Wagering Trust Fund.

The tax rate on slot machine revenues is:

- 30 percent on revenue of \$100 million or less;
- 32.5 percent on revenue greater than \$100 million, but less than or equal to \$200 million; and
- 35 percent on all revenue greater than \$200 million.

The tax is collected on a daily basis and deposited into the Public Education Capital Outlay and Debt Service Trust Fund. The division is required to notify the eligible facility concerning the appropriate tax rate to apply to the slot machine revenues.

The committee substitute also imposes a \$500 per slot machine annual local education impact fee. The funds may only be used to offset costs directly resulting from the operation of slot machines in the county. The local school district must pay funds in excess of those needed to offset the additional costs resulting from slot machines to the Education Enhancement Trust Fund.

Section 551.106(3), F.S., provides that the division shall determine by rule how the tax payments shall be made on a daily basis. An eligible facility must submit a monthly report by the 5th day of each month for all taxes remitted during the preceding month that shows all slot machine activities for the preceding calendar month and such other information as may be required by the division.

Section 551.106(4), F.S., provides that a slot machine licensee who fails to make tax payments shall be subject to an administrative penalty of \$1,000 for each day the payment is not remitted.

Section 551.106(5), F.S., provides that in addition to monetary penalties, the division may suspend or revoke, or fail to renew the license of the slot machine licensee.

Section 551.106(6), F.S., provides that the division may require slot machines licensees to remit taxes, fee, fines, and assessments by electronic funds transfer.

**Occupational license required; application; fee**

Section 551.107(1), F.S., provides that licensed individuals and entities under this section require heightened state scrutiny which includes fingerprints for a criminal records check.

Section 551.107(2), F.S., requires licenses be issued to persons who hold positions with access to designated slot machine gaming areas for the following categories:

- General occupational licenses for general employees, food service, maintenance, and other similar service and support employees with access to the designated slot machine gaming area.
  - Service and support employees with a current pari-mutuel occupational license issued pursuant to ch. 550, F.S., and a current background check are not required to submit to an additional background check for a slot machine occupational license as long as the pari-mutuel occupational license remains in good standing.
- Professional occupation licenses for any person, proprietorship, partnership, corporation, or other entity that is authorized by a slot machine licensee to manage, oversee, or otherwise control daily operations as a slot machine manager, floor supervisor, security personnel, or any other similar position of oversight of gaming operations.
- Business occupational licenses for any slot machine management company or slot machine business associated with slot machine gaming or a person who manufactures, distributes, or sells slot machines, slot machine paraphernalia, or other associated equipment to slot machine licensees or any person not an employee of the slot machine licensee who provides maintenance, repair, or upgrades or otherwise services a slot machine or other slot machine equipment.

It provides that slot machine occupational licenses are not transferable.

Section 551.107(3), F.S., provides that a slot machine licensee shall not employ or otherwise allow a person to work at a slot machine facility unless the person holds a valid occupational license. It requires that the business must also hold an occupational license.

Section 551.107(4), F.S., requires that persons seeking a slot machine occupational license or renewal must apply to the division and include the appropriate fee. The division shall establish, by rule, an annual renewal schedule. The license is valid for three years. Fees shall not exceed \$50 for a general or professional occupational license of an employee or \$1,000 for a non-employee providing goods or services to the slot machine licensee. License fees for general occupational license shall be paid for by the slot machine licensee.

Section 551.107(5), F.S., provides that if the state gaming commission or other similar regulatory authority of another state or jurisdiction extends to the division reciprocal courtesy to maintain disciplinary control, the division may:

- Deny an application for or revoke, suspend, or place conditions or restrictions on a license of a person or entity who has been refused a license by any other state gaming commission or similar authority;

- Deny an application for or suspend or place conditions on a license of any person or entity who is under suspension or has unpaid fines in another jurisdiction.

Section 551.107(6), F.S., allows the division to deny, suspend, revoke or declare ineligible an occupation license if the applicant or licensee:

- Violates provisions of this chapter or rules of the division;
- Has been convicted in this state or any other state of a capital felony or a felony;
- Has been convicted of an offense in any other state which would be a felony under the laws of this state involving:
  - Arson,
  - Trafficking in, conspiracy to traffic in, smuggling, importing, conspiracy to smuggle or import, or delivery, sale, or distribution of a controlled substance, or
  - A crime involving a lack of good moral character, or has had a slot machine gaming license revoked by this state, or
  - Has had a slot machine gaming license revoked by any other jurisdiction for an offense related to slot machine gaming.
- Has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if the felony or misdemeanor is related to gambling or bookmaking as contemplated in s. 849.25, F.S.

Section 551.107(7), F.S., requires that upon initial application and every five years thereafter, fingerprints for all slot machine occupational license applications be taken as required by the Florida Department of Law Enforcement and the Federal Bureau of Investigations of a level II criminal records check.

### **Prohibited relationships**

Section 551.108(1), F.S., provides that a person employed by or performing any function on behalf of the division shall not:

- Be an officer, director, owner, or employee of any person or entity licensed by the division;
- Have or hold any interest, direct or indirect, in or engage in any commerce or business relationship with any person licensed by the division.

Section 551.108(2), F.S., prohibits a manufacturer or distributor of slot machines from entering into a contract with a slot machine licensee that provides any revenue sharing of any kind or nature that is, directly or indirectly, calculated on the basis of a percentage of slot machine revenues.

Section 551.108(2), F.S., prohibits a manufacturer or distributor of slot machines or any equipment necessary for the operation of slot machines or an officer, director, or employee of any such manufacturer or distributor from having any ownership or financial interest in a slot machine license or in any business owned by the slot machine licensee.

**Prohibited acts**

Section 551.109(1), F.S., provides for administrative fines or civil penalties up to \$10,000 for persons who intentionally make or cause another to make false statements in any report, disclosure, application, or any other document required under the chapter or rule.

Section 551.109(2), F.S., provides for administrative fines or civil penalties up to \$10,000 for any person who possesses a slot machine without a licensee or who possesses a slot machine at any location other than at the slot machine licensee facility.

Section 551.109(3), F.S., provides for administrative fines or civil penalties up to \$25,000 for any person who intentionally excludes, or takes any action in an attempt to exclude, anything or its value from the deposit, counting, collection, or computation of revenues from slot machine activity.

Section 551.109(4), F.S., provides for criminal penalties for any person who intentionally manipulates the outcome, payoff, or operation of a slot machine by physical tampering, or by use of any object, instrument, or device, whether mechanical, electrical, magnetic, or other means, manipulates the outcome, payoff, or operation of a slot machine.

**Illegal devices**

Section 551.110, F.S., provides that notwithstanding any provision of law to the contrary, slot machines manufactured, sold, distributed, possessed, or operated according to the provisions of the chapter are considered lawful.

**Exclusions of certain persons**

Section 551.111, F.S., provides that the division has the power to exclude certain persons from the facility for conduct that would constitute a violation of the chapter or rules of the division. The division may exclude any person who has been ejected from a facility of a slot machine licensee in this state or who has been excluded from any facility of a slot machine licensee or game facility in another state by the state gaming authority unless the division finds that the licensee's presence would not be adverse to the public interest or to the integrity of the industry.

**Minors prohibited from slot machines**

Section 551.112, F.S., provides that a person under the age of 21 may not:

- Play any slot machine;
- Have access to the designated slot machine gaming area;
- Be employed in a position that allows or requires access to the designated gaming area.

The committee substitute requires clear and conspicuous signage in the designated slot machine gaming areas regarding the age limitation.

### **Designated slot machine gaming areas**

Section 551.113, F.S., requires that within the designated slot gaming areas:

- Slot machines be available;
- ATM's or other similar devices be prohibited;
- No loans, credit or advance cash be provided by the slot machine licensee to enable a person to play a slot machine;
- Pari-mutuel races or games shall be displayed and pari-mutuel wagering be offered on live or simulcast races conducted or offered to patrons of the eligible facility;
- No complimentary alcoholic beverages can be served;

It requires that the slot machine operator offer training to employees on responsible gaming and work with the compulsive gambling treatment program within the Mental Health Program Office of the Department of Children and Family Services to recognize problem gaming situations and to implement responsible gaming programs and practices.

It requires signage in designated slot machine gaming areas warning of the risks and danger of gambling, showing the odds of winning, and informing patrons of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling.

Section 551.113(8), F.S., requires that the division establish standards of approval for the physical layout and construction of any facility or building devoted to slot machine operations. The standards require that the slot machine gaming area be connected to and contiguous within the operation of the live gaming facility. It is the intent of the Legislature that each facility:

- Possess superior consumer amenities and conveniences to encourage and attract the patronage of tourists and other visitors from across the region, state, and nation;
- Have adequate motor vehicle parking facilities to satisfy patron requirements;
- Have a physical layout and location that facilitates access to the pari-mutuel portion of the facility.

### **Days and Hours of Operation**

Section 551.114, F.S., provides that the slot machine gaming areas may be open year round for up to 16 hours per day.

### **Penalties**

Section 551.116, F.S., provides that the division may revoke or suspend any license issued under the chapter upon willful violation by the licensee of any provision of the chapter. The division may impose a civil penalty in lieu of suspension or revocation. The penalty shall not exceed \$1,000 for each count or separate offense.

**Compulsive Gambling Treatment Program**

Section 551.117, F.S., provides for a compulsive gambling treatment program established by the Mental Health Program Office within the Department of Children and Family Services

**Catering License**

Section 551.118, F.S., provides that a slot machine retailer is entitled to a caterer's license pursuant to s. 565.02, F.S.

**Rulemaking**

Section 551.119, F.S., provides that the division may adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of this chapter. It also provides for emergency rulemaking to address the Legislature's intent to preserve the rights and welfare of the people in order to provide additional funds to the benefit of the public.

**Slot Machine Referendums**

Section 551.120, F.S., provides that the pari-mutuel facilities in Miami-Dade County must pay for the cost of future referendums on whether to permit slot machines. Further, the provision removes the discretion from the county as whether or when a slot machine referendum must be held. Under s. 551.121, F.S., the county must hold a referendum within 21 to 120 days of a request for a referendum by a slot machine licensee. Other provisions of the committee substitute, however, require approval of the use of slot machines by referendum prior to licensure as a slot machine licensee.

**Greyhound Records**

This committee substitute also amends s. 550.2415, F.S., to require the division to maintain records of injuries to and the disposition of greyhounds used for racing.

**Effective date**

The committee substitute provides that the act shall take 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:

As described in the Effect of Proposed Changes section of this staff analysis, the committee substitute imposes taxes on slot machine revenues and licensing fees for slot machines and slot machine licensees.

B. Private Sector Impact:

As described in the Effect of Proposed Changes section of this staff analysis, the committee substitute imposes taxes on slot machine revenues and licensing fees for slot machines and slot machine licensees.

C. Government Sector Impact:

The Financial Impact Estimating Conference provided low and high estimates for net slot machine income. Assuming that both counties pass the referenda and the Legislature taxes the activity at a typical tax rate between 30 percent and 50 percent, the low estimate for tax collections for the first year of operation (Fiscal Year 2005-06) is \$87.9 million and \$414.8 million by year six. The high estimate is \$215 million for the first year and \$1.01 billion for year six.

The conference stated that there would be a reduction in sales tax collections of between \$11.9 million and \$45 million and a reduction in the sale of lottery tickets of between \$15 million and \$63.1 million due the shift in spending.

Extending the methodology used for the estimates for slot machines in Miami-Dade and Broward counties to encompass all 27 pari-mutuel facilities results in estimated third year slot machine tax revenues of between \$1.0 billion and \$2.3 billion. Offsetting these revenues would be losses of between \$115 million and \$170 million in sales tax revenues, and between \$145 million and \$215 million in Lottery proceeds, resulting in a net increase in all revenues of between \$700 million and \$2.0 billion. It is highly unlikely, however, that these revenue levels could be achieved due to differences in tourism levels and demographic characteristics between Miami-Dade and Broward counties and the rest of the state, and due to competition between the Miami-Dade and Broward facilities and those elsewhere in the state.

**Tax rates on slot machines in other states<sup>18</sup>**

	Delaware	Iowa	Louisiana	New Mexico	New York	Pennsylvania	Rhode Island	W.V.
<b>Tax rate</b>	35.4%	22-24%	18.5-32%	25%	61%	34%	61%	38%
<b>No. of slot machines</b>	1000 but can be approved for 1500	No max	Varies	Up to 600 per track	No max	3000 per site	No max	Up to 400; special permission thereafter
<b>No. of Locations</b>	6,410	3,513	14,296	2,385	8	14	2	4

**VI. Technical Deficiencies:**

Section 551.121, F.S., as created by the committee substitute, requires Miami-Dade County to comply with a request of a slot machine licensee to hold a referendum as to whether to allow slot machines. Section 551.120, F.S., appears to authorize qualified persons to apply for and receive a slot machine license before the voters have approved slot machine activity; however, this section further specifies that such license does not authorize *operation* of slot machines until the voters have given their approval. Meanwhile, the committee substitute at s. 551.104(2), F.S., requires the approval of a referendum as a prerequisite to becoming a slot machine licensee. Thus, these provisions regarding when a person can become licensed appear to conflict.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.

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<sup>18</sup> Information provided from Amy Baker, Coordinator, Legislative Office of Economic & Demographic Research.



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## **VIII. Summary of Amendments:**

None.

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