

1 A bill to be entitled
2 An act relating to gaming; creating s. 849.088, F.S.;
3 providing for slot machines to be operated in certain
4 pari-mutuel facilities by the Division of Pari-mutuel
5 Wagering of the Department of Business and Professional
6 Regulation; providing purpose and intent; providing for
7 implementation of s. 23, Art. X of the State Constitution;
8 providing definitions; providing responsibility and
9 authority of the division; providing for adoption of
10 rules; providing for a program to address economic and
11 social problems associated with gambling; providing for
12 vendors, disclosure, and contract requirements; providing
13 for application by pari-mutuel permitholders seeking to
14 offer slot machine gaming; prohibiting certain
15 manufacturers and distributors and officers, directors,
16 and employees of such manufacturers and distributors from
17 having any ownership or financial interest in a pari-
18 mutuel facility or pari-mutuel permitholder offering slot
19 machine gaming; providing exceptions; providing for
20 suspension of operations for violation; providing for the
21 division to enter into contracts for the acquisition of
22 slot machines and other goods or services; providing for
23 contracts with the division for installation and operation
24 of slot machines; providing for employee records check;
25 providing conditions for slot machine operations;
26 providing for inspection of facilities; providing for
27 method of wagers; providing limitation on amount wagered;
28 prohibiting fee for participation; providing authorization

29 to participate in slot machine game play; providing for
 30 refusal of access for certain reasons; prohibiting slot
 31 machine game play by minors; prohibiting interference with
 32 the operation of a slot machine to avoid payment or
 33 manipulate the outcome of play; providing penalties;
 34 providing for seizure and destruction of any object used
 35 for such interference; providing for distribution of
 36 moneys collected; providing for actions upon certain
 37 violations; providing criminal penalties; providing for
 38 injunction restraining violations; providing for
 39 administrative procedures relating to rules and contracts;
 40 providing for application; amending s. 550.0251, F.S.;
 41 authorizing the division to adopt emergency rules;
 42 providing an effective date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Section 849.088, Florida Statutes, is created
 47 to read:

48 849.088 Slot machines.--

49 (1) PURPOSE AND INTENT.--The purpose of this section is to
 50 implement the provisions of s. 23, Art. X of the State
 51 Constitution. It is the intent of the Legislature to provide for
 52 operation by the state of slot machines that are to be located
 53 within pari-mutuel facilities in a county that, pursuant to s.
 54 23, Art. X of the State Constitution, has approved by referendum
 55 authorization of slot machines. The Legislature finds that slot
 56 machine play of authorized games as defined in this section is

CODING: Words **stricken** are deletions; words **underlined** are additions.

57 considered to be lottery style games and not casino gaming
 58 because the winners share in the total amount played less a
 59 percentage for the state.

60 (2) DEFINITIONS.--As used in this section:

61 (a) "Authorized game" means a game or series of games that
 62 are played in a qualified pari-mutuel facility using a slot
 63 machine as defined in this subsection. The term "series of
 64 games" means a game that offers a continuation of play with a
 65 chance to win requiring an additional payment for each
 66 continuation in the series.

67 (b) "Department" means the Department of Business and
 68 Professional Regulation.

69 (c) "Division" means the Division of Pari-mutuel Wagering
 70 of the department.

71 (d) "Qualified pari-mutuel facility" means a thoroughbred
 72 and harness racing, greyhound racing, or jai-alai pari-mutuel
 73 facility that has conducted live racing or jai-alai games during
 74 each of the last 2 calendar years before November 2004 located
 75 in a county that, pursuant to s. 23, Art. X of the State
 76 Constitution, has approved by referendum the authorization of
 77 slot machines within pari-mutuel facilities.

78 (e) "Slot machine" or "game machine" means a gaming
 79 device, either mechanical or electronic or a combination of
 80 both, that offers class II gaming as defined in 25 U.S.C. s.
 81 2703.

82 (3) RESPONSIBILITY AND AUTHORITY OF THE DIVISION.--

83 (a) The division shall administer this section and shall
 84 provide and operate slot machines under this section and the

85 rules adopted under this section and s. 23, Art. X of the State
 86 Constitution. In carrying out the provisions of this section,
 87 the division shall:

88 1. Perform all administrative functions related to the
 89 receipt and distribution of moneys collected from slot machine
 90 operations.

91 2. Monitor and verify the cash flow and collect all moneys
 92 derived from play of the slot machine.

93 3. Adopt rules necessary for the implementation of this
 94 section and s. 23, Art. X of the State Constitution, including,
 95 but not limited to:

96 a. Security.

97 b. Public safety, including the safety of players.

98 c. The number of machines allowed within a facility or
 99 specific area within the facility.

100 d. The operation of slot machines, including game play and
 101 hours of operation.

102 e. Consumption of alcohol within any area where slot
 103 machines are located.

104 f. Slot machine game play, including the cost to play,
 105 methods of payment to play, prize payout amounts, and prize
 106 payout procedures.

107 g. Collection of moneys paid for the cost of playing the
 108 slot machines by players.

109 h. Recordkeeping and accounting procedures.

110 i. Payment of compensation to the pari-mutuel facility.

111 j. Minimum physical criteria for the areas where slot
 112 machines are placed within a facility.

113 k. Electronic banking machines such as automated teller
114 machines.

115 1. Public notice and signage within the area where the
116 machines are located.

117 m. Procedures for the handling of patron disputes and
118 complaints by the public relating to slot machine operations.

119 (b) In addition, the division is hereby authorized to:

120 1. Purchase, lease, or lease-purchase slot machines for
121 installation onto the premises of qualified pari-mutuel
122 facilities.

123 2. Contract with pari-mutuel permitholders for
124 installation, operation, and security of slot machines at
125 qualified pari-mutuel facilities.

126 3. Install and operate slot machines on the premises of
127 qualified pari-mutuel facilities.

128 4. Collect and distribute all moneys derived from slot
129 machine operations.

130 5. Monitor game play on the slot machines.

131 6. Contract with the pari-mutuel permitholder for
132 incidental services and equipment related to operation of the
133 slot machines.

134 7. Conduct investigations and monitor the operation of
135 slot machines and the playing of authorized games thereon.

136 8. Suspend operation of any or all slot machines at a
137 facility, after hearing, for any violation of the provisions of
138 this section or the administrative rules adopted pursuant to
139 this section or s. 23, Art. X of the State Constitution.

140 (c) The division shall establish by rule a program to
 141 address economic and social problems associated with gambling,
 142 including, but not limited to, addiction, crime, and poverty
 143 related to or caused by gambling. The program may include, but
 144 is not limited to, increasing public awareness of the economic
 145 and social problems related to gambling, requiring by rule
 146 placement of signs in areas where slot machines are located
 147 warning of the risks and dangers of gambling and showing the
 148 odds of winning, and offering a toll-free telephone number for
 149 referral of individuals for counseling for gambling-related
 150 problems.

151 (4) VENDORS; DISCLOSURE AND CONTRACT REQUIREMENTS.--

152 (a) The department may enter into contracts for the
 153 purchase, lease, or lease-purchase of such goods or services as
 154 are necessary for effectuating the purposes of this section. The
 155 department may not contract with any person or entity for the
 156 total operation and administration of the state slot machine
 157 operation established under this section but may make
 158 procurements that integrate functions such as game design,
 159 supply of goods and services, and advertising. In all
 160 procurement decisions, the department shall take into account
 161 the particularly sensitive nature of slot machine operations and
 162 shall consider the competence, quality of product, experience,
 163 and timely performance of the vendors in order to promote and
 164 ensure security, honesty, fairness, and integrity in the
 165 operation and administration of slot machine operations and the
 166 objective of raising net revenues for the benefit of the public.

167 (b) The department shall investigate the financial
 168 responsibility, security, and integrity of each vendor with
 169 which it intends to negotiate a contract for major procurement.

170 (c) The department may require disclosure of the
 171 information required by s. 24.111(2) from any vendor if the
 172 department finds that such disclosure is necessary to protect
 173 the dignity and integrity of slot machine operations and in the
 174 best interests of the state.

175 (d) Each vendor in a major procurement in excess of
 176 \$25,000, and any other vendor if the department deems it
 177 necessary to protect the state's financial interest, shall, at
 178 the time of executing the contract with the department, post an
 179 appropriate bond with the department in an amount determined by
 180 the department to be adequate to protect the state's interests,
 181 but not higher than the full amount estimated to be paid
 182 annually to the vendor under the contract. In lieu of the bond,
 183 a vendor may, to ensure the faithful performance of its
 184 obligations, file with the department an irrevocable letter of
 185 credit acceptable to the department in an amount determined by
 186 the department to be adequate to protect the state's interests
 187 or deposit and maintain with the Chief Financial Officer
 188 securities that are interest bearing or accruing and that meet
 189 all requirements under s. 24.111(5).

190 (e) Every contract in excess of \$25,000 entered into by
 191 the department pursuant to this section shall contain a
 192 provision for payment of liquidated damages to the department
 193 for any breach of contract by the vendor. The department may
 194 require a liquidated damages provision in any contract if the

195 department deems it necessary to protect the state's financial
196 interest.

197 (f) Each vendor shall be qualified to do business in this
198 state and shall file appropriate tax returns as provided by the
199 laws of this state, and all contracts shall be governed by the
200 laws of this state.

201 (5) APPLICATION FOR SLOT MACHINES.--A pari-mutuel
202 permitholder seeking to offer slot machine games to the public
203 within the premises of a qualified pari-mutuel facility shall
204 make application on forms prescribed by the division. The
205 applicant shall submit a nonrefundable application fee of
206 \$1,000. The application shall contain all of the information the
207 division, by rule, may determine is required to ensure
208 eligibility.

209 (6) PROHIBITED RELATIONSHIPS.--

210 (a) No manufacturer or distributor of slot machines or any
211 equipment necessary for the operation of slot machines or
212 officer, director, or employee of any such manufacturer or
213 distributor shall have any ownership or financial interest,
214 directly or indirectly, in the establishment or business of any
215 qualified pari-mutuel facility or pari-mutuel permitholder under
216 contract with the division to offer slot machine games to the
217 public under this section. The prohibition in this paragraph
218 does not apply to holding stock in a publicly traded mutual fund
219 or institutional investments made for a class of employees for
220 retirement purposes.

221 (b) The division shall not enter into any contract under
222 this section with any pari-mutuel permitholder or facility,

223 manufacturer, or distributor that is in violation of paragraph
 224 (a). The division shall suspend all slot machine operations at
 225 any pari-mutuel facility in violation of paragraph (a) for as
 226 long as such violation continues.

227 (7) CONTRACTS FOR SLOT MACHINES.--Upon determination that
 228 the pari-mutuel facility is qualified, the division shall
 229 contract with the pari-mutuel permitholder for the provision and
 230 operation by the division of slot machines. Terms of the
 231 contract shall provide for:

232 (a) Use of the pari-mutuel facility by the division for
 233 the provision of the game machines.

234 (b) Payment to the pari-mutuel permitholder for use of the
 235 facility and reimbursement of costs as agreed to by the
 236 department and the pari-mutuel permitholder.

237 (c) Provision and maintenance of the area within the pari-
 238 mutuel facility where the game machines shall be located.

239 (d) Personnel to be employed by the pari-mutuel facility
 240 that are deemed necessary by the division for the operation of
 241 the slot machines.

242 (e) Provision and maintenance of ancillary equipment and
 243 furnishings necessary for the operation and security of the game
 244 machines.

245 (f) Location, installation, and maintenance of the game
 246 machines.

247 (g) Operation, oversight, and monitoring of the game
 248 machines by the division.

249 (h) Collection and distribution by the division of moneys
 250 paid into the game machines.

251 (i) Security related to all aspects of the operation of
 252 the game machines.

253 (j) Enforcement of laws and department rules relating to
 254 the slot machines and game play.

255 (k) Reasons for any suspension or termination of the
 256 contract by the division, including, but not limited to:

257 1. Commission of a violation of this section or rules
 258 adopted under this section or s. 23, Art. X of the State
 259 Constitution.

260 2. Commission of any fraud, deceit, or misrepresentation.

261 3. Conduct prejudicial to public confidence in slot
 262 machine operations.

263 4. Any change in ownership of the facility or permitholder
 264 in violation of subsection (6).

265 5. Any material change in any matter considered by the
 266 department in executing the contract with the pari-mutuel
 267 permitholder.

268 (l) Any other provisions deemed necessary by the division
 269 to maintain the integrity and security of slot machine
 270 operations and to ensure the financial viability of the
 271 operations.

272 (8) EMPLOYEE RECORDS CHECK.--The division may by rule
 273 require a criminal records check of all employees responsible
 274 for onsite monitoring of slot machine game play, security
 275 related to slot machine operations or play, or collection or
 276 handling of any moneys derived from slot machine operations.
 277 Fingerprints for all such employees shall be taken in a manner
 278 approved by the division and then shall be submitted to the

279 Department of Law Enforcement and the Federal Bureau of
 280 Investigation for a criminal records check upon initial
 281 application and every 5 years thereafter. The cost of processing
 282 fingerprints and conducting a records check shall be borne by
 283 the division if the person is an employee of the division and by
 284 the pari-mutuel facility if the person is an employee of the
 285 facility.

286 (9) CONDITIONS FOR SLOT MACHINE OPERATIONS.--

287 (a) Slot machines may be operated only at the location
 288 specified by contract with the division, and such location may
 289 only be the location of the qualified pari-mutuel facility at
 290 which the pari-mutuel permitholder is authorized to conduct
 291 pari-mutuel wagering activities pursuant to such permitholder's
 292 valid pari-mutuel permit or as otherwise authorized by law.

293 (b) Slot machines may be operated at the facility only
 294 when the facility is authorized to accept wagers on pari-mutuel
 295 events during its authorized meet. Slot machines may operate
 296 between the hours of 12 noon and 12 midnight on any day a pari-
 297 mutuel event is conducted live as a part of its authorized meet.

298 (c) No outcome of play or a continuation of play may be
 299 intentionally manipulated, through programming or otherwise, to
 300 display a result that appears to be a near win, gives the
 301 impression that the player is getting close to a win, or in any
 302 way gives a false impression that the chance to win is improved
 303 by another play; however, this paragraph does not apply to
 304 general promotional enticements such as graphic displays and
 305 sound effects that do not falsely imply that the chance of
 306 winning improves by continued play.

307 (10) INSPECTION OF FACILITIES.--The pari-mutuel facility
 308 shall be subject to inspection by the division or any law
 309 enforcement agency during the licensee's regular business hours.
 310 The inspection will specifically encompass slot machine
 311 operations and those areas where the slot machines are located.

312 (11) METHOD OF WAGERS; LIMITATION.--

313 (a) No slot machine game play may be conducted using money
 314 or other negotiable currency. Games may only be played utilizing
 315 a system whereby all players' money is first converted by the
 316 facility to tokens or other instruments that shall be used for
 317 slot machine game play. The division shall by rule provide for
 318 methods for payment of the cost of playing a slot machine and
 319 redemption of tokens and prize payouts.

320 (b) The division may limit by rule the amount wagered in
 321 any game or series of games, but the maximum amount to play a
 322 game or to continue play in a series of games may not exceed \$2
 323 in value. The total amount to complete a series may not exceed
 324 \$8 in value.

325 (12) FEE FOR PARTICIPATION.--The pari-mutuel facility may
 326 not charge a fee for the right to play slot machine games except
 327 a general admission fee charged to the general public for
 328 admission to the facility and reported under s. 550.125(2) or
 329 charged for entrance to a cardroom facility under s. 849.086.

330 (13) AUTHORIZATION TO PARTICIPATE.--Notwithstanding any
 331 other provision of law, it is not a crime for a person to
 332 participate in an authorized game at a qualified pari-mutuel
 333 facility licensed under this section if such game is provided
 334 strictly in accordance with the provisions of this section.

335 (14) REFUSAL OF ACCESS.--A pari-mutuel facility or the
 336 division may refuse entry to or refuse to allow to play any
 337 person who is objectionable, undesirable, or disruptive, but
 338 such refusal shall not be on the basis of race, creed, color,
 339 religion, sex, national origin, marital status, physical
 340 handicap, or age, except as provided in this section.

341 (15) PLAY BY MINOR PROHIBITED.--A person who has not
 342 attained 18 years of age may not be permitted to play any slot
 343 machine game.

344 (16) INTERFERENCE WITH OPERATION OF SLOT MACHINES
 345 PROHIBITED; SEIZURE AND DESTRUCTION OF OBJECTS.--

346 (a) No person shall use any instrument, object, device,
 347 slug or counterfeit token, or token-like object for the purpose
 348 of avoiding payment of the cost to play a game or series of
 349 games on a slot machine. Any person who violates this paragraph
 350 commits a misdemeanor of the second degree, punishable as
 351 provided in s. 775.082 or s. 775.083.

352 (b) No person shall, while entering or on the premises of
 353 any pari-mutuel facility offering operation of slot machines,
 354 possess any object, instrument, or device, whether mechanical,
 355 electrical, magnetic, or otherwise, that may be used for the
 356 purpose of interfering with or manipulating the outcome of a
 357 game or series of games on any slot machine. A person who
 358 violates this paragraph commits a misdemeanor of the second
 359 degree, punishable as provided in s. 775.082 or s. 775.083.

360 (c) No person shall use any object, instrument, or device,
 361 whether mechanical, electrical, magnetic, or otherwise, for the
 362 purpose of manipulating the outcome of a game or series of games

363 on a slot machine. A person who violates this paragraph commits
 364 a misdemeanor of the first degree, punishable as provided in s.
 365 775.082 or s. 775.083.

366 (d) The enforcing agency making an arrest for a violation
 367 of paragraph (a), paragraph (b), or paragraph (c) shall seize
 368 any instrument, object, device, slug or counterfeit token, or
 369 token-like object that was used or is capable of being used for
 370 the purpose of interfering in any way with the operation of any
 371 slot machine to avoid payment of the cost of play or to
 372 manipulate the outcome of play. Any such seized instrument,
 373 object, device, slug or counterfeit token, or token-like object
 374 is contraband and shall forfeit to the state and, after all
 375 judicial proceedings at trial or appeal in which it may be
 376 required as evidence, shall be destroyed.

377 (17) DISTRIBUTION OF MONEYS COLLECTED.--All of the moneys
 378 derived from slot machine operations shall be deposited in the
 379 Administrative Trust Fund of the department.

380 (a) As nearly as practical, at least 50 percent of the
 381 gross revenue from slot machine play shall be returned to the
 382 players in the form of prizes. Variable prize payout percentages
 383 may be determined by the division based on type of machine or
 384 game or other criteria as determined by the division provided
 385 the total payout is consistent with this paragraph.

386 (b) Each fiscal year, at least 39 percent of the gross
 387 revenue from slot machine play shall be deposited into the
 388 General Revenue Fund to be used for the benefit of public
 389 education in this state. The department shall transfer moneys to
 390 the General Revenue Fund at least once each quarter.

391 (c) The funds from slot machine play remaining in the
 392 Administrative Trust Fund after transfers to the General Revenue
 393 Fund shall be used for the payment of expenses of the division's
 394 slot machine operations. These expenses shall include all costs
 395 incurred in the acquisition, operation, and administration of
 396 the slot machines and all costs resulting from any contracts
 397 entered into for the purchase or lease of goods or services
 398 required for the operation of slot machines, including, but not
 399 limited to:

400 1. The compensation paid to the pari-mutuel facility
 401 permitholder.

402 2. The costs of supplies, materials, tokens, independent
 403 audit services, independent studies, data transmission,
 404 advertising, promotion, incentives, public relations,
 405 communications, security, bonding for employees, printing, and
 406 distribution of tokens.

407 3. The costs of any other goods and services necessary for
 408 effectuating the purposes of this section.

409 (d) The unencumbered balance of funds from slot machine
 410 play that remains in the Administrative Trust Fund at the end of
 411 each fiscal year shall be transferred to the General Revenue
 412 Fund to be used for education purposes.

413 (18) ACTIONS FOR VIOLATIONS.--

414 (a) The division may make void or deny the renewal of any
 415 contract for slot machine operations when the pari-mutuel
 416 permitholder has:

417 1. Violated or failed to comply with the provisions of
 418 this section or any rules adopted pursuant to this section or s.
 419 23, Art. X of the State Constitution;

420 2. Knowingly caused, aided, abetted, or conspired with
 421 another to cause any person to violate this section or any rules
 422 adopted pursuant to this section or s. 23, Art. X of the State
 423 Constitution;

424 3. Obtained a license or permit by fraud,
 425 misrepresentation, or concealment; or

426 4. Become no longer eligible under this section for slot
 427 machine operations.

428 (b) If a pari-mutuel permitholder's pari-mutuel permit or
 429 license is suspended or revoked by the division pursuant to
 430 chapter 550, the division may, but is not required to, suspend
 431 or terminate the facility's slot machine operation.

432 (c) Notwithstanding any other provision of this section,
 433 the division may impose an administrative fine not to exceed
 434 \$1,000 for each violation against any person who has violated or
 435 failed to comply with the provisions of this section or any
 436 rules adopted pursuant to this section or s. 23, Art. X of the
 437 State Constitution.

438 (19) CRIMINAL PENALTY; INJUNCTION.--

439 (a)1. Any person who operates any slot machine except as
 440 provided in this section commits a felony of the third degree,
 441 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

442 2. Any pari-mutuel permitholder who violates any provision
 443 of this section commits a misdemeanor of the first degree,
 444 punishable as provided in s. 775.082 or s. 775.083. Any pari-

445 mutuel permitholder who commits a second or subsequent violation
 446 of the same paragraph or subsection within a period of 3 years
 447 from the date of a prior conviction for a violation of such
 448 paragraph or subsection commits a felony of the third degree,
 449 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

450 (b) The division, any state attorney, the statewide
 451 prosecutor, or the Attorney General may apply for a temporary or
 452 permanent injunction restraining further violation of this
 453 section, and such injunction shall issue without bond.

454 (20) ADMINISTRATIVE PROCEDURE.--

455 (a) The department may at any time adopt emergency rules
 456 pursuant to s. 120.54. The Legislature finds that such emergency
 457 rulemaking power is necessary for the preservation of the rights
 458 and welfare of the people in order to provide additional funds
 459 to benefit the public. The Legislature further finds that the
 460 unique nature of state slot machine operations requires, from
 461 time to time, that the department respond as quickly as is
 462 practicable to changes in the marketplace. Therefore, in
 463 adopting such emergency rules, the department need not make the
 464 findings required by s. 120.54(4)(a). Emergency rules adopted
 465 under this section are exempt from s. 120.54(4)(c) and shall
 466 remain in effect until replaced by other emergency rules or by
 467 rules adopted under the nonemergency rulemaking procedures of
 468 the Administrative Procedure Act.

469 (b) The provisions of s. 120.57(3) apply to the
 470 department's contracting process, except that:

471 1. A formal written protest of any decision, intended
 472 decision, or other action subject to protest shall be filed

473 within 72 hours after receipt of notice of the decision,
 474 intended decision, or other action.

475 2. As an alternative to any provision in s. 120.57(3)(c),
 476 the department may proceed with the bid solicitation or contract
 477 award process when the secretary of the department sets forth in
 478 writing particular facts and circumstances that require the
 479 continuance of the bid solicitation process or the contract
 480 award process in order to avoid a substantial loss of funding to
 481 the state or to avoid substantial disruption of the timetable
 482 for any scheduled slot machine operations.

483 (21) APPLICATION.--This section shall apply to qualified
 484 pari-mutuel facilities in a county that, pursuant to s. 23, Art.
 485 X of the State Constitution, has approved by referendum
 486 authorization of slot machines within qualified pari-mutuel
 487 facilities.

488 Section 2. Subsection (14) is added to section 550.0251,
 489 Florida Statutes, to read:

490 550.0251 The powers and duties of the Division of Pari-
 491 mutuel Wagering of the Department of Business and Professional
 492 Regulation.--The division shall administer this chapter and
 493 regulate the pari-mutuel industry under this chapter and the
 494 rules adopted pursuant thereto, and:

495 (14) The division shall have full authority and power to
 496 make, adopt, amend, or repeal rules relating to slot machine
 497 operations, to enforce and carry out the provisions of s.
 498 849.088, and to operate and regulate the authorized slot machine
 499 activities in the state. The division is authorized to adopt

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500 | emergency rules to implement the provisions of s. 849.088 and s.
501 | 23, Art. X of the State Constitution.

502 | Section 3. This act shall take effect July 1, 2005.