

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 335 CS Game Promotions
SPONSOR(S): Grimsley and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 552

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	11 Y, 0 N, w/CS	Reese	Reese
2) Business Regulation Committee	16 Y, 0 N	Morris	Liepshutz
3) Civil Justice Committee	5 Y, 0 N	Lammers	Billmeier
4) Fiscal Council			
5) State Resources Council			

SUMMARY ANALYSIS

HB 335 reduces the publishing requirements for advertising for game promotions where the total prize value is greater than \$5,000. Advertising copy must include the material terms of the rules and regulations of the game and information on how to obtain the full rules and regulations, rather than including the full rules and regulations as is currently required.

The bill appears to have no fiscal impact on state or local government.

The bill establishes an effective date of July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides limited government—This bill removes a requirement that certain information be included in advertising copy, with the Department of Agriculture and Consumer Services having the responsibility to determine what information should be included.

B. EFFECT OF PROPOSED CHANGES:

Present situation

Current law imposes a number of requirements on an operator of a game promotion where the total prize value is greater than \$5,000.¹ A game promotion operator must file with the Department of Agriculture and Consumer Services (department) a copy of the rules and regulations of the promotion at least 7 days prior to the beginning of the promotion.² In addition, the operator must file with the department a list of all prizes and prize categories.³ Rules and regulations for the promotion must also be conspicuously posted in each retail outlet or location where the game will be played or participated in by the public.⁴ All rules and regulations must be included in any advertising copy used in connection with the game promotion.⁵ Radio and television advertisements may state that the rules and regulations are available at retail outlets or from the promotion's operator.⁶ A nonrefundable \$100 fee is required for each filing.⁷

The requirement that the rules and regulations be published in all advertising copy was added to the statute in 1973.⁸

HB 355

The bill amends s. 849.094(3), F.S., to require that only the "material terms" of a game promotion's rules and regulations must be included in all advertising copy used in conjunction with a game promotion where the total prize value is greater than \$5,000, if the advertising copy includes a website address, toll-free telephone number, or mailing address where the complete rules and regulations will be available for the duration of the game promotion. This disclosure must be legible.

C. SECTION DIRECTORY:

Section 1. Amends s. 849.094, F.S., to revise advertising requirements for game promotions in connection with the sale of consumer products or services.

Section 2. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

¹ Section 849.094(3)-(5), F.S.

² Section 849.094(3).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Laws of Florida 1973, ch. 73-292, s. 1.

1. Revenues:

Provisions of the bill appear to have no impact on state government revenues.

2. Expenditures:

Provisions of the bill appear to have no impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Provisions of the bill appear to have no impact on local government revenues.

2. Expenditures:

Provisions of the bill appear to have no impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Game promotion operators expect to realize a reduction in advertising costs due to the requirement that only the material terms of the rules and regulations for a particular promotion be published instead of the entire text.

D. FISCAL COMMENTS:

Please see C. Direct Economic Impact on Private Sector

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill contains no grant of rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Although this bill does not contain a grant of rule-making authority, the department already has extensive rule-making authority pursuant to s. 849.094(8)(a), F.S. Prior to this bill, all legal requirements relating to game promotions have been set forth in the statute. This bill will give the department an opportunity to exercise its previously vested rule-making authority.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 23, the Agriculture Committee adopted one amendment which specified that a website address, a toll-free telephone number or a mailing address where the full rules and regulations of the promotion may be obtained must be included in the material terms of the rules and regulations.