

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT
(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Finance and Tax Committee

BILL: CS/CS/SB's 1038 & 218

INTRODUCER: Finance and Tax Committee, Regulated Industries Committee, and Senators Jones and Geller

SUBJECT: Slot Machine Gaming

DATE: April 13, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Imhof	RI	Fav/CS
2.	Keating	Johansen	FT	Fav/CS
3.			GA	
4.			RC	
5.				
6.				

I. Summary:

The bill makes the following changes to ch. 551, F.S.,

- Excludes non-redeemable credits from the definition of “slot machine revenues” and defines “non-redeemable credits”;
- Clarifies that the \$2 million bond should be paid to the Governor each year;
- Deletes language that would allow the bond amount to be increased;
- Provides that the division must have procedures for requiring slot machine licensees to implement and establish drug testing programs for all slot machine occupational licensees;
- Require the slot machine licensee to create and file with the division a written policy for the implementation of a drug testing program;
- Creates new language for temporary occupational licenses;
- Provides that the \$3 million license fee is to be paid on the anniversary date of issuance of the initial license and then annually thereafter;
- Provides for a professional occupational license for 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;
- Provides for a universal occupational license, allowing the Division of Pari-Mutuel Wagering (division) to issue a combination license for pari-mutuel occupational and cardroom licenses;
- Provides that the slot machine license or combination license shall be valid for the same three year term as a pari-mutuel occupational license;

- Provides that the division may deny, revoke, or suspend any occupational license if the applicant or holder of the license has unpaid obligations or defaults on an obligation, or writes bad checks;
- Provide that the division may fine, or suspend or revoke, or place conditions on the licensee's license if they provide false information under oath regarding an application for a license or an investigation by the division;
- Provides that slot machine manufacturers and distributors may maintain slot machine storage and maintenance facilities in the county where the slot machine facility is located;
- Provides that certified education facilities may maintain slot machines for purposes of education and licensure as slot machine technicians, inspectors or investigators;
- Allows for 2000 slot machines in the slot machine licensee facility;
- Provides that the hours of operation may be extended by majority vote of the governing body of the municipality where the slot machine facility is located or the governing body of the county if the slot machine facility is not located in the municipality;
- Provides that automated teller machines or similar devices are not allowed in the designated slot machine gaming areas of a facility;
- Provide that a slot machine licensee may not accept or cash any checks within the designated slot machine gaming areas:
- Allows slot machines or the computer operating system to be linked by any means to any other slot machine or computer operating system of another slot machine licensee. It allows a progressive system to be used in conjunction with slot machines within or between licensed facilities;
- Provide that persons who are employed within the property of the slot machine facility may cash checks at the slot machine facility;
- Allows a progressive system to be used in conjunction with slot machines within or between licensed facilities;
- Allows shipment of gaming devices including slot machines into this state provided the destination of the shipment is an eligible facility.

This bill substantially amends the following sections of the Florida Statutes: 551.102, 551.103, 551.104, 551.1045, 551.106, 551.107, 551.109, 551.114, 551.116, 551.121, and 849.15.

II. Present Situation:

During the 2004 General Election, the electors approved Amendment 4 to the State Constitution, codified as s. 23, Art. X, Florida Constitution, which authorized slot machines at existing pari-mutuel facilities in Miami-Dade and Broward Counties upon an affirmative vote of the electors in those counties. Both Miami-Dade and Broward Counties held referenda elections on March 8, 2005. The electors approved slot machines at the pari-mutuel facilities in Broward County, but the measure was defeated in Miami-Dade County. Under the provisions of the amendment, four pari-mutuel facilities are eligible to conduct slot machine gaming in Broward County – Gulfstream Park Racing Association – thoroughbred permitholder, Pompano Park Racing – a harness racing permitholder, Dania Jai Alai – a jai alai permitholder, and Hollywood Greyhound Track – a greyhound permitholder.

Legislation was passed during 2005 Special Session B, HB 1B, ch. 2005-362, L.O.F., that implemented Amendment 4. The Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation is charged with regulating the operation of slot machines in the affected counties.

Definitions

Section 551.102, F.S., 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.

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;
- Technical requirements and the qualifications contained in this chapter that are necessary to receive a slot machine license or slot machine occupational license;
- Procedures to scientifically test and technically evaluate slot machines for compliance with this chapter;
- 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 machine gaming that allow the division and the Department of Law Enforcement to audit the operation, financial data, and program information of a slot machine licensee;
- Procedures for requiring each licensee at his or her own cost and expense to supply the division with a bond having 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; Annually thereafter, the licensee shall file a bond having a penal sum that is determined each year by the division pursuant to rules adopted by the division and that approximates the anticipated state revenues from the licensee's slot machine operation; however, the bond may not in any case be less than \$2 million;
- 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;
- A requirement that the payout percentage of a slot machine be no less than 85 percent;
- Minimum standards for security of the facilities, including floor plans, security cameras, and other security equipment.

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.

The slot machine licensee must comply with the following provisions among others:

- Continue to be in compliance with the provisions of chapter 551, F.S.
- Continue to be in compliance with chapter 550, where applicable, and maintain the pari-mutuel permit and license in good standing pursuant to the provisions of chapter 550.
- Conduct no fewer than a full schedule of live racing or games as defined in s. 550.002(11), F.S.;
- 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, including changes in ownership or interest of a slot machine license of 5 percent or more;
- Allow the division and the Department of Law Enforcement unrestricted access to and right of inspection of facilities of a slot machine licensee in which any activity relative to the conduct of slot machine gaming is conducted;
- Ensure that the facilities-based computer system that the licensee will use for operational and accounting functions of the slot machine facility is specifically structured to facilitate regulatory oversight. The facilities-based computer system is required to be designed to provide the division and the Department of Law Enforcement with the ability to monitor, at any time on a real-time basis, the wagering patterns, payouts, tax collections, and such other operations as necessary to determine whether the facility is in compliance with statutory provisions and rules adopted by the division for the regulation and control of slot machine gaming. The division and the Department of Law Enforcement are required to have complete and continuous access to this system;
- Ensure that each slot machine is protected from manipulation or tampering to affect the random probabilities of winning plays. The division or the Department of Law Enforcement shall have the authority to suspend play upon reasonable suspicion of any manipulation or tampering. When play has been suspended on any slot machine, the division or the Department of Law Enforcement may examine any slot machine to determine whether the machine has been tampered with or manipulated and whether the machine should be returned to operation;
- Submit a security plan, including the facilities' floor plan, the locations of security cameras, and a listing of all security equipment that is capable of observing and electronically recording activities being conducted in the facilities of the slot machine licensee.

Temporary License

Section 551.1045, F.S., provides for temporary licensure of slot machine licensees after 180 days following the effective date of the act if the division has not adopted rules to implement the provisions of the chapter.

License Fee

Section 551.106(1), F.S., requires that upon submission of the initial application for a slot machine license and annually thereafter upon submission of a renewal application, the licensee pay to the division's nonrefundable license fee of \$3 million.

Tax on Slot Machine Revenue

Section 551.106(2), F.S., imposes a 50 percent tax on slot machine revenues. The slot machine tax revenues are transferred from the Pari-mutuel Wagering Trust Fund to the Educational Enhancement Trust Fund of the Department of Education.

Slot machine occupational licenses

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 also provides that the 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 licenses 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 ch. 551, F.S., 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;
 - 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 three 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 for a level II criminal records check.

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 license or who possesses a slot machine at any location other than at the slot machine licensee facility.

Section 551.109(3), F.S., provides that any person who knowingly 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, or any person who by trick, sleight-of-hand performance, a fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or any combination thereof or reduces or attempts to reduce a losing wager in connection with slot machine gaming commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

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.

Section 551.109(5), F.S., provides that theft of any slot machine proceeds or of property belonging to the slot machine operator or licensed facility by an employee of the operator or facility or by an employee of a person, firm, or entity that has contracted to provide services to the operator or facility constitutes a felony of the third degree, punishable as provided in s. 775.082, F.S. or s. 775.083, F.S.

Section 551.109(6), F.S., provides that any law enforcement officer or slot machine operator who has probable cause to believe that a violation of s. 551.109(3), (4), or (5), F.S., has been committed by a person and that the officer or operator can recover the lost proceeds from the activity by taking the person into custody may, for the purpose of attempting to effect the recovery or for prosecution, take the person into custody on the premises and detain the person in a reasonable manner and for a reasonable period of time.

Section 551.114, F.S., requires that the designated slot gaming areas:

- May allow for play, up to 1500 slot machines;
- Have pari-mutuel races or games displayed and offer pari-mutuel wagering on live, intertrack, and simulcast races;
- Provide signs warning of the risks and dangers of gambling, showing the odds of winning and payout percentages, and informing patrons of the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling shall be posted;
- Be located within the current live gaming facility or in existing building that must be contiguous and connected to the live gaming facility. Any new construction must be contiguous and connected to the live gaming facility; and
- Provide adequate office space at no cost to the division and the Department of Law Enforcement for the oversight of slot machine operations.

Days and hours of operation

Section 551.116, F.S., provides that the slot machine gaming areas may be open 365 days a year and open for a maximum of 16 hours per day.

Prohibited activities and devices

Section 551.121, F.S., prohibits:

- Complimentary or reduced-cost alcoholic beverages from being served to persons playing a slot machine. The cost of the alcoholic beverages shall cost at least the same amount as alcoholic beverages served to the general public at a bar within the facility;
- Making any loan, providing credit, or advancing cash in order to enable a person to play a slot machine;
- ATM's or similar devices designed to provide credit or dispense cash from a person's personal account to be located within the facilities of the slot machine licensee.
- Accepting or cashing, any personal, third-party, corporate, business, or government-issued check from any person.

A slot machine, or the computer operating system linking the slot machine, may not be linked by any means to any other slot machine or computer operating system of another slot machine licensee. Progressive systems are prohibited from use with slot machines within or between licensed facilities.

Paper currency or tickets or an electronic payment system for wagering and the return or delivery of payouts to the player in the form of tickets that may be exchanged for cash, merchandise, or other items of value are the only accepted methods of payment at the slot machine facility.

Manufacture, sale, possession, etc., of coin-operated devices prohibited

Section 849.15, F.S., permits shipment of gaming devices, including slot machines, into any county of this state where slot machine gaming is authorized under ch. 551, F.S.

III. Effect of Proposed Changes:**Section 1. Definitions**

The bill creates the definition of "non-redeemable credits" in s. 551.102(6), F.S., and defines it as slot machine operating credits that cannot be redeemed for cash or any other thing of value by a slot machine, kiosk, or the slot machine licensee that are provided free of charge to patrons. The credits do not constitute "non-redeemable credits" until they are metered as credit into a slot machine and recorded in the facility-based monitoring system.

The bill amends s. 551.102(12), F.S., to exclude non-redeemable credits from the definition of "slot machine revenues." "Non-redeemable credits" will allow the slot machine licensee to offer free spins or free play credit to a patron of the slot machine facility. These credits have no cash value.

Section 2. Powers and duties of the division and law enforcement

The bill amends s. 551.103(1)(f), F.S., to clarify that the \$2 million bond should be paid to the Governor each year. It deletes language that would allow the bond amount to be increased.

The bill creates s. 551.103(j), F.S., to provide that the division must have procedures for requiring slot machine licensees to implement and establish drug testing programs for all slot occupational licensees.

Section 3. License to conduct slot machine gaming

The bill creates s. 551.104(i)6., F.S., to require the slot machine licensee to create and file with the division a written policy for the implementation of a drug testing program which includes but is not limited to requiring each employee to sign an agreement that he or she understands that the slot machine facility is a drug free work place.

Section 4. Temporary license

The bill amends s.551.1045, F.S., to delete language referring to temporary slot machine licenses and creates new language for temporary occupational licenses. It provides that, notwithstanding s. 120.60, F.S., the division may issue a temporary occupational license upon proof of no criminal convictions. The license remains valid until the division grants the license or notifies the applicant of its intent to deny licensure. A person is limited to one temporary license per year and it is nontransferable.

Section 5. License fee

The bill amends s. 551.106(1)(a), F.S. to provide that the \$3 million license fee is to be paid on the anniversary date of issuance of the initial license and then annually thereafter.

Section 6. Slot machine occupational license; findings; application; fee

The bill amends s. 551.107(2)(a)2., F.S., to provide for a professional occupational license for 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.

Section s.551.107(2)(a)3., is amended to exclude business occupational licenses for persons who provide maintenance, repair or upgrades or otherwise service a slot machine or other slot machine equipment.

The bill amends s. 551.107(2)(b), F.S., to provide for a universal occupational license. It allows the division to issue a combination license for pari-mutuel occupational and cardroom licenses.

The bill creates s. 551.107(4)(b), F.S., to provide that the slot machine license or combination license shall be valid for the same three year term as a pari-mutuel occupational license.

The bill creates s. 551.107(9), F.S., to provide that the division may deny, revoke, or suspend any occupational license if the applicant or holder of the license has unpaid obligations or defaults on an obligation, or writes bad checks.

The bill creates s. 551.107(10), F.S., to provide that the division may fine, or suspend or revoke, or place conditions on the licensee's license if they provide false information under oath regarding an application for a license or an investigation by the division.

The bill creates s. 551.107(11), F.S., to provide that the division may impose a civil fine of up to \$5,000 for each of violation under the chapter or rules of the division.

Section 7. The bill amends s. 551.109(2), F.S., to provide that persons who are slot machine manufacturers or distributors and hold appropriate licenses issued by the division are authorized to maintain a slot machine storage and maintenance facility at any location in a county where slot machine gaming is authorized.

It also provides that certified education facilities may maintain slot machines for purposes of education and licensure as slot machine technicians, inspectors or investigators. It also gives the Department of Law Enforcement authority to possess slot machines for training and testing purposes.

Section 8. Slot machine gaming areas

The bill amends s. 551.114(1), F.S., increasing from 1,500 to 2,000 the number of slot machines allowed in the slot machine licensee facility.

Section 9. Days and hours of operation

The bill amends s. 551.116, F.S., to provide that the hours of operation may be extended by majority vote of the municipality where the slot machine facility is located or the governing body of the county if the slot machine facility is not located in the municipality.

Section 10. Prohibited activities and devices

The bill amends s. 551.121(3), F.S., to provide that automated teller machine or similar devices are not allowed in the designated slot machine gaming areas of a facility. This language will allow for automated teller machines and similar devices to be located on any other location of the pari-mutuel facility other than the slot machine gaming area.

The bill amends s. 551.121(4), F.S., to provide that a slot machine licensee may not accept or cash any checks within the designated slot machine gaming areas.

The bill amends s. 551.121(5), F.S., to allow slot machines or the computer operating system to be linked by any means to any other slot machine or computer operating system of another slot machine licensee. It allows a progressive system to be used in conjunction with slot machines within or between licensed facilities.

Section 11. Manufacture, sale, possession, etc of coin-operated devices prohibited

The bill amends s. 849.15(1), F.S., to allow shipment of gaming devices including slot machines into this state provided the destination of the shipment is an eligible facility defined in s.

551.102, or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a), F.S. It deletes the provision that limited shipment of slot machines to any eligible county.

Section 12. The bill becomes effective 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:

The Revenue Estimating Conference estimated the total fiscal impact of CS/SB's 1038 & 218 from the increase in the number of authorized slot machines to be a positive increase to the Educational Enhancement Trust Fund of \$9.4 million in fiscal year 2007-08 and \$30.0 million on a recurring basis.

2007-2008

Issue	<u>General Revenue</u>		<u>State Trust</u>		<u>Local</u>		<u>Total</u>	
	Cash	Recurr	Cash	Recurr	Cash	Recurr	Cash	Recurr
Increase Hours of Operation - Local Option	(**)	(**)	**	**	(**)	(**)	**	**
License Fee Due Date Change *	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Increase Max. # of Machines to 2,000	(0.7)	(2.2)	9.4	30.0	(0.2)	(0.5)	8.5	27.3
Nonredeemable Credits Not Included in Net Income	0.0	0.0	(**)	(**)	0.0	0.0	(**)	(**)

* 2006-07 impact of (\$9.0) million on the General Revenue Fund

B. Private Sector Impact:

The bill may provide more revenue to the slot machine licensees by allowing additional slot machines and progressive play on the slot machines. The slot machine licensees may incur costs associated with implementing a drug testing program.

C. Government Sector Impact:

The department may incur costs associated with implementing procedures for a drug testing program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
