

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Finance and Tax Committee

**BILL:** CS/CS/SB 1380

**INTRODUCER:** Finance and Tax Committee, Regulated industries Committee and Senators Jones and King

**SUBJECT:** Electronic Gaming Machines

**DATE:** February 21, 2008      **REVISED:** 3/5/08 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bedford</u>	<u>Imhof</u>	<u>RI</u>	<b>Fav/CS</b>
2.	<u>ODonnell</u>	<u>Johansen</u>	<u>FT</u>	<b>Fav/CS</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This bill provides for the establishment, operation, and regulation of electronic gaming machines. The games may be located at pari-mutuel facilities that do not operate slot machines and that are regulated by the Division of Pari-Mutuel Wagering in the Department of Business and Professional Regulation (division or DPMW). There are currently 20 active pari-mutuel permitholders at 19 facilities and the Ocala Breeders facility, that are not eligible to operate slot machines, that would be eligible for licensure of electronic gaming machines.

This bill provides exceptions to ss. 849.0931 and 849.094, Florida Statutes.

This bill amends ss. 215.22, 550.002, 849.15, and 895.02, Florida Statutes.

This bill creates subsection 550.135(4), Florida Statutes, and undesignated sections of law.

## **II. Present Situation:**

Article X, section 7 of the Florida Constitution allows for the operation of a state-operated lottery. The Florida Lottery was established by the Legislature in 1987 and codified as ch. 24, F.S.

The operation of electronic gaming machines is not presently authorized under Florida law, though slot machines are specifically authorized in Broward and Miami-Dade Counties by s. 23, Art. X, Florida Constitution. The only player activated lottery machines are those that dispense instant lottery game tickets following the insertion of a coin or currency by a ticket purchaser pursuant to s. 24.105(9)4, F.S. Under s. 24.102, F.S., all net proceeds from lottery games are to be used to support improvements to public education.

### **Slot Machines**

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, a thoroughbred permitholder; The Isle Casino and Racing at Pompano Park, a harness racing permitholder; Dania Jai Alai, a jai alai permitholder; and Mardi Gras Race Track and Gaming Center, a greyhound permitholder. Legislation was passed during the 2005 Special Session B, HB 1B, ch. 2005-362, L.O.F., that implemented Amendment 4. DPMW is charged with regulating the operation of slot machines in the affected counties. Of the four eligible in Broward County, all are operating except Dania Jai Alai.

On January 29, 2008, another referendum was held in which the slot machines in Miami-Dade County were approved. Under the provisions of Amendment 4, three pari-mutuel facilities are now eligible to conduct slot machine gaming in Miami-Dade County: Miami Jai-Alai ; a jai-alai permitholder; Flagler Greyhound Track , a greyhound permitholder; and Calder Race Course, a thoroughbred permitholder.

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

Section 1 grants overall control of the electronic gaming machines to the DPMW and authorizes an electronic gaming machine licensee to possess and operate electronic gaming machines at an eligible facility that is not licensed to conduct slot machine gaming.

### **Definitions**

Section 2 creates an undesignated section of law and provides the following electronic gaming definitions:

- “Bingo or game of bingo” means the game of chance commonly known as bingo, whether or not electronic or computer aids are used. In order for a game of bingo to take place, at least two live players must be competing for a common prize. Player activated gaming machines that contain the game of bingo may not be house-banked games and may not be electronic or electromechanical facsimiles of any game of chance or slot machine of any kind. Bingo consists of players competing against other players for prizes resulting from a random draw or electronic determination and release forming the pre-designated game-winning pattern on an electronic bingo card.
- “Bonus prize” means a prize awarded in a bingo game in addition to the game-winning prize. The bonus prize may be based on different pre-designated and pre-announced patterns from the game-winning pattern, on achieving a winning pattern in a specified quantity of numbers or designations drawn or electronically determined and released, or on any combination of these conditions.
- “Designated electronic gaming machine area” means any area of a facility of an electronic gaming machine licensee in which electronic gaming machines may be conducted.
- “Distributor” means any person who sells, leases, offers, provides, distributes, or services any electronic gaming machine or associated equipment, software, or other functions required for use or play of electronic gaming machines. A manufacturer may be a distributor within the state.
- “Electronic game” means an electronically simulated bingo game played on an electronic gaming machine that, upon insertion of a ticket, or electronic or account-based card, is available to play or simulate a game of bingo played on a network of electronic gaming machines. Electronic gaming machines simulating the game of bingo may not be house-banked. Bonus prizes and progressive prizes may be awarded to players at any licensed facility, and a player may receive a payoff in the form of tickets, or electronic or account-based credits that may be exchanged for cash, merchandise, or other items of value.
- "Electronic gaming machine" means a player station, machine, or device that is required to operate the player station, machine, or device, upon which an electronic game is played or operated. An electronic gaming machine may use spinning reels, video displays, video poker, or other similar technologies available now or in the future to convey outcomes to a player if the results displayed at the gaming machine are based upon simulated bingo game play, as approved by the department. A gaming machine must display one or more bingo cards to be used in the game before numbers or other designations for the game are randomly drawn. Any card in use by a player must be visible to the player during game play. All electronic gaming machines must be directly linked to a central computer for purposes of security, monitoring, and auditing. The central computer may not limit a facility's ability to deploy its electronic player tracking or electronic gaming accounting system. However, such systems must use a widely accepted open communications protocol to ensure interoperability among all manufacturers and to provide a player with the ability to seamlessly alternate play between the electronic gaming machines and electronic gaming machines of different licensed manufacturers. An electronic gaming machine is not a coin-operated amusement machine as defined in s. 212.02, F.S., and does not include an amusement game or machine as described in s. 849.161, F.S. Electronic gaming machines are not subject to the tax imposed by s. 212.05(1)(h), F.S.

- “Electronic gaming machine facility” means an eligible facility at which electronic gaming machines are lawfully offered for play.
- “Electronic gaming machine license” means a license issued by the division authorizing a pari-mutuel permitholder to place and operate electronic gaming machines and games in an eligible facility.
- “Electronic gaming machine revenues” means all cash and property, except nonredeemable credits, received by the electronic gaming machine licensee from the operation of electronic gaming machines, less the amount of cash, cash equivalents, credits, and prizes paid to winners of electronic games.
- “Eligible facility” means any facility at which a licensee under ch. 550, F.S., conducted, during calendar year 2007, a full schedule of live racing or games, as defined in s. 550.002(11), F.S., including races or games under s. 550.475, F.S., or was authorized to conduct limited intertrack wagering under s. 550.6308, F.S., and is not a licensed slot machine facility under ch. 551, F.S. A pari-mutuel facility may become an eligible facility if it meets the requirements of this subsection for the preceding three consecutive calendar years prior to submitting an application for a license to conduct electronic gaming machines.

Currently 20 active pari-mutuel permitholders at 19 facilities and the Ocala Breeders facility, are eligible under this definition. This assumes that the facilities in Miami-Dade County will choose to get a slot machine license.

- “Game-winning pattern” means a pre-determined pattern on an electronic bingo card. Each game must have one game-winning pattern or arrangement that must be common to all players and may be won by multiple players simultaneously. A game-winning prize must be awarded in every game. The pattern designated as the game-winning pattern need not pay the highest prize available in the game. Other patterns may be designated for the award of bonus prizes in addition to the prize to be awarded based on the game-winning pattern.
- “Manufacturer” means any person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs, or modifies any electronic gaming machine or associated equipment for use or play in this state for gaming purposes. A manufacturer may be a distributor within the state.
- “Nonredeemable credits” means electronic gaming machine operating credits that cannot be redeemed for cash or any other thing of value by an electronic gaming machine, kiosk, or the electronic gaming machine licensee and that are provided free to patrons. Such credits are not nonredeemable credits until they are metered as credit into an electronic gaming machine and recorded in the facility-based monitoring system.
- “Progressive prize” means an established prize for a bingo game, funded by a percentage of each player’s purchase or wager within one or more licensed facilities for a specific progressive bingo game, which is awarded to a player for obtaining a specific pre-designated and pre-announced pattern having a specified quantity of numbers or designations randomly drawn and released or electronically determined or randomly drawn and released or electronically determined in a specified sequence.

The progressive prize must be rolled over to each subsequent specific progressive bingo game until it is won.

### **Powers and Duties of the Department**

Section 3 creates an undesignated section of law, requiring the division to adopt rules necessary to implement, administer, and regulate the operation of electronic gaming machines. The rules must include:

- Procedures for applying for and renewing electronic gaming machine licenses.
- Technical requirements and qualifications for receiving an electronic gaming machine license.
- Procedures to scientifically test and evaluate electronic gaming machines. The division may contract with an independent testing laboratory to conduct this testing, which has a national reputation indicating that it is competent and qualified for this type of testing. The laboratory may not be owned or controlled by a licensee. The lab must be approved by the division.
- Procedures relating to collecting taxes and to verifying, accounting for and auditing electronic gaming machine revenues.
- Procedures for regulating, managing, and auditing the operation, financial data, and program information relating to electronic gaming machines that enable the division and the Department of Law Enforcement to audit the operation, financial data, and program information of an electronic gaming machine licensee.
- Procedures to allow the division and the Department of Law Enforcement to monitor, at any time, wagering patterns, payouts, tax collection, and compliance with division rules, including the ability of the division or the Department of Law Enforcement to suspend play immediately on particular electronic gaming machines.
- Procedures to require each licensee, at the licensee's expense, to supply the division a bond having the penal sum of \$2 million payable to the Governor for each year of the licensee's electronic gaming machine operations.
- Procedures to require licensees to maintain specified records and submit any data, information, record, or report, including financial and income records, as required or determined by the division to be necessary.
- A requirement that the payout percentage of an electronic gaming machine be no less than 85 percent. The theoretical payout percentage will be determined using standard methods of probability theory.
- Minimum standards for security of the facilities, including floor plans, security cameras, and other security equipment.
- Procedures to require electronic gaming machine licensees to implement and establish drug-testing programs for all electronic gaming machine occupational licensees.

The division is required to conduct any necessary investigations to fulfill its responsibilities. The Department of Law Enforcement and local law enforcement agencies have concurrent jurisdiction to investigate criminal violations and may investigate any other criminal violation of law occurring at the facilities of an electronic gaming machine licensee. Such investigations may be conducted in conjunction with the appropriate state attorney. The division, the Department of

Law Enforcement, and local law enforcement agencies have unrestricted access to an electronic gaming machine licensee's facility at all times. The division, the Department of Law Enforcement, and local law enforcement agencies can inspect both the facilities and the machines. The division can also collect the taxes, assessments, fees, and penalties. The division can suspend or revoke the electronic gaming license under certain circumstances.

### **License to Conduct Electronic Gaming**

Section 4 provides that an electronic gaming machine license can be issued after a completed application and fee is received by the division. The license may only be issued to a person or entity licensed to conduct pari-mutuel wagering under ch. 550, F.S. The conditions of licensure are:

- Continue to comply with this act.
- Continue to comply with chapter 550, Florida Statutes, and maintain the pari-mutuel permit and license in good standing.
- Maintain a full schedule of live racing or games or be authorized to conduct limited intertrack wagering.
- If changes are made to the pari-mutuel permit, provide documentation to the division to maintain the electronic gaming license. Changes in ownership or interest of five percent or more must be approved by the division prior to such change. Changes in ownership less than five percent, unless the change results in a cumulative total of more than five percent, must be reported to the division within 20 days.
- Allow the division and Department of Law Enforcement unrestricted access to and right of inspection of facilities of an electronic gaming machine licensee.
- Ensure that the computer system is specifically structured for regulatory oversight. The division and Department of Law Enforcement will be allowed continuous access to this system. The computer system will be reviewed and approved by the division.
- Ensure that the electronic gaming machines and game is protected from manipulation and tampering. The division and Department of Law Enforcement can suspend play if they reasonably suspect any manipulation or tampering of the machines.
- Submit a security plan which meets the minimum security requirements of the division. This plan must be implemented prior to the start of play.
- Create and file a written policy for:
  - Creating opportunities to purchase from vendors in this state, including minority vendors.
  - Creating opportunities for employment of residents of this state, including minority residents.
  - Ensuring opportunities for construction services from minority contractors.
  - Ensuring that opportunities for employment are offered on an equal, nondiscriminatory basis.
  - Training for employees on responsible gaming.
  - The implementation of a drug-testing program that requires each employee to sign an agreement that each employee understands that the facility is a drug-free workplace.

- The electronic gaming facility will use the internet based job-listing system of the Agency for Workforce Innovation to post jobs. The licensee will submit an annual report to the division regarding jobs and minorities.
- Ensure that the payout percentage of an electronic gaming machine is no less than 85 percent. The theoretical payout percentage will be determined using standard methods of probability theory.

An electronic gaming machine license is not transferable. The licensee must keep permanent daily records of its operation and maintain these records for at least 5 years. All records must be available to the division for audit and inspection. The division will design forms for monthly reports to be filed by the licensee and are due at the same time as the monthly pari-mutuel report. The electronic gaming machine licensee will file an audit of the revenues provided by an independent certified public accountant with the division. The division may share information with other law enforcement agencies.

### **Electronic Gaming Licensee Agreements**

Section 4 further requires binding written agreements governing the payment of purses between the applicant for thoroughbred licensure and the Florida Horsemen's Benevolent and Protective Association, Inc. or the association representing a majority of the thoroughbred owners and trainers at the applicant's eligible facility and an agreement governing the payment of awards between the applicant and the Florida Thoroughbred Breeders' Association; or for harness licensure, and agreement with the Florida Standardbred Breeders and Owners Association, Inc.; or for a greyhound license, an agreement with the Florida Greyhound Association, Inc; or for a quarter horse license, an agreement with the Florida Quarter Horse Racing Association, Inc.; or for a Jai Alai license, an agreement with the International Jai Alai Players Association or a binding written agreement approved by the majority of the jai alai players at the applicant's eligible facility at which the applicant has a permit issued after January 1, 2000. The agreement may direct the payment of purses and awards from any wagering or games the applicant is authorized to conduct under state law. Purses and awards are subject to ch. 550, F.S. All sums for breeders', stallion, and special racing awards shall be remitted monthly to the respective breeders' association for the payment of awards, subject to the administrative fees authorized under ch, 550.

The committee substitute provides for binding arbitration if the parties cannot come to an agreement. The department shall prohibit the operation of electronic gaming machines for failure to have the required agreements.

If any provision of this subsection is held invalid, the invalidity does not affect other provisions or applications of this subsection or of this act. The provisions are severable.

### **Temporary Licenses**

Section 5 authorizes the division to grant a temporary occupational license after it determines it has received a completed application and a determination has been made that the applicant has not been convicted of or had adjudication withheld on any disqualifying criminal offense. Not

more than one temporary license may be issued for any person in any year. Temporary licenses are not transferable.

### **License Fees**

Section 7 provides that with the application and annually thereafter, the licensee must pay a license fee of \$3 million for each 12 months of licensure. The money is to be deposited into the Pari-mutuel Wagering Trust Fund of the DBPR to be used for investigations, regulation of electronic gaming, and enforcement of electronic gaming provisions. The division will evaluate the license fee and submit recommendations in the legislative budget request regarding the amount of money necessary to operate the regulatory program.

### **Tax on Electronic Gaming Machine Revenues**

Section 7 further provides for imposition of a tax on electronic gaming machine revenues at each facility at the rate of 35 percent. The money will be paid to the division for deposit into the Pari-mutuel Wagering Trust Fund for immediate transfer into the Educational Enhancement Trust Fund of the Department of Education. Any interest earnings are also transferred. The money transferred is to be used to supplement public education funding statewide. The money is to be first used to pay debt service on lottery bonds issued to fund school construction in the event lottery revenues are insufficient. A penalty may be assessed of up to \$10,000 for each day the tax is not remitted. If the penalties are not paid, the division may suspend, revoke, or refuse to renew the license. Funds may be required to be remitted via electronic funds transfer.

### **Electronic Gaming Machine Occupational License**

Section 8 provides for electronic gaming machine occupational licenses to be issued to applicants that might be granted access to electronic gaming machine areas for purposes of food service, maintenance, other similar service and support employees, persons in a capacity to manage or supervise, security personnel, or other oversight positions, maintenance or repair personnel that are not employees, nonemployees that are manufacturers, distributors, or sellers of equipment or machines, or goods or services associated with electronic gaming. Licenses can be combined as appropriate under this section. This section outlines the requirements for fees, fingerprints, and the denial, suspension or revocation of the license.

### **Prohibited Relationships**

Section 9 provides that a person employed by or performing any function on behalf of the division may not:

- Be an officer, director, owner, or employee of any person or entity licensed by the division.
- Have or hold any interest in or engage in any business relationship with any person licensed by the division.
- Wager on an electronic gaming machine located at a facility licensed by the division. This includes any relative living with the employee.



A manufacturer or distributor of electronic gaming machines cannot:

- Enter into a contract with an electronic gaming machine licensee which provides for any revenue sharing.
- Have any ownership or financial interest in an electronic gaming machine license or business owned by an electronic gaming machine licensee.

An occupational licensee or relative living with the licensee cannot wager on an electronic gaming machine located at a facility operated by the licensee.

### **Prohibited Acts**

Section 10 provides that a person who knowingly makes, or causes, aids, assists, or procures another to make a false statement in any report, disclosure, application, or other document required by this act or any rule adopted under this act is subject to an administrative fine or civil penalty of up to \$10,000. A person who possesses an electronic gaming machine without a license or at the wrong location is subject to an administrative fine or civil penalty of up to \$10,000 per machine. This prohibition does not apply to:

- Electronic gaming machine manufacturers or distributors that hold appropriate licenses.
- Certified educational facilities that are authorized to maintain electronic gaming machines for education and licensure of electronic gaming machine technicians, inspectors, or investigators.

A person who knowingly or attempts to exclude anything of value from the deposit, counting, collection, or computation of revenues from electronic gaming machine activity, or a person who by trick, sleight-of-hand performance, fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or a combination thereof, or reduces or attempts to reduce a losing wager in connection with electronic gaming commits a felony of the third degree.

A person who manipulates or attempts to manipulate the outcome, payoff, or operation of an electronic gaming machine by physical tampering commits a felony of the third degree. Theft of gaming machine proceeds or property belonging to an electronic gaming machine operator, licensee, or licensed facility by an officer, partner, owner, or employee of a person contracted to provide services constitutes a felony of the third degree. A law enforcement officer or electronic gaming machine operator who has probable cause to believe a person has committed a violation and that officer or operator can recover the lost proceeds from the activity by taking the person into custody, can take into custody at the facility and detain the person in a reasonable manner for a reasonable time. Penalties imposed and collected under this section are to be deposited in the Pari-mutuel Wagering Trust Fund.

### **Exclusion of Certain Persons**

Section 12 provides that the division may exclude any person from a facility of an electronic gaming machine licensee for violations of this act or of division rules. The division may also exclude a person who has been ejected or excluded from a facility in another state.

### **Electronic Gaming Minimum Age**

Section 13 provides that a person who is not 21 years of age may not operate or play an electronic gaming machine, have access to the designated gaming area, or be an employee with access to the designated gaming area. A licensed facility must post a sign which states notice of this information.

### **Electronic Gaming Machine Areas**

Section 14 provides that an electronic gaming machine licensee is authorized to have up to 2,000 electronic gaming machines within the designated electronic gaming machine area. No more than 2,000 electronic gaming machines shall be authorized at a facility regardless of the number of permitholders conducting operations at the facility. The electronic gaming machine licensee will display pari-mutuel races or games within the designated gaming area and offer patrons the opportunity to wager on live races or games. The division requires the posting of signs warning of the risks and dangers of gambling giving a toll-free telephone number to provide information and referral services. The designated electronic gaming machine area may be located within the current live gaming facility or an existing building that is contiguous and connected to the live gaming facility. If a building for the designated gaming area has not been constructed, it must be constructed to be contiguous and connected to the live gaming facility.

### **Department Office Space**

The electronic gaming machine licensee must provide adequate office space at no cost to the division and the Department of Law Enforcement for regulatory oversight.

### **Hours**

Section 15 provides that electronic gaming machine areas may be open daily; a cumulative total of 18 hours per day on Monday through Friday and 24 hours per day on Saturday and Sunday and on holidays specified in s. 110.117(1), F.S.

### **Penalties**

Section 16 provides that the division may revoke or suspend an electronic gaming machine license for a willful violation of any provision of this act or rule adopted under this act. In lieu of revocation or suspension, the division may impose a civil penalty against the licensee up to \$100,000 for each count or separate offense. All fines must be deposited into the Pari-mutuel Wagering Trust Fund.

### **Compulsive Gambling Program**

Section 17 provides that each licensee will train employees on responsible gaming and work with a compulsive or addictive gambling prevention program to recognize problem gaming situations and implement responsible gaming programs and practices. The division will, subject to competitive bidding, contract for services in this area. An advertising program is required

publicizing a telephone hotline. If this program is not complied with, it can be grounds for nonrenewal of licensure. This program will be funded from an annual nonrefundable regulatory fee of \$250,000 paid by each licensee.

### **Caterer's License**

An electronic gaming machine licensee is entitled to a caterer's license pursuant to s. 565.02, F.S., on days on which the pari-mutuel facility is open to the public for electronic gaming machine play.

### **Other Prohibited Activities**

Section 19 provides that the following activities are prohibited:

- Complimentary or reduced-cost alcoholic beverages may not be served to persons in the designated electronic gaming machine area.
- An electronic gaming machine licensee cannot make loans, provide credit, or advance cash to enable a person to play.
- An automated teller machine may not be located within the designated electronic gaming machine area.
- An electronic gaming machine licensee cannot accept or cash a check from any person in the gaming area.
- Except under certain circumstances for employees, a licensee can not accept or cash for any person a government-issued check, third-party check, or payroll check made payable to an individual.
- Electronic gaming machines may accept tickets or electronic or account-based cards for wagering and return or deliver payouts to the players in the form of tickets or electronic or account-based credits that may be exchanged for cash, merchandise, or other items of value. The use of coins, currency, credit, or debit cards, tokens, or similar objects is prohibited.

### **Exceptions**

Section 22 provides that the act does not apply to bingo aides used in bingo games conducted by charitable, nonprofit, or veterans' organizations authorized to conduct bingo under s. 849.0931, F.S. This act does not apply to game promotions or operators regulated under s. 849.094, F.S.

Section 23 provides that electronic gaming machines are not subject to the provisions of s. 849.0931, F.S. Taxes imposed on electronic gaming and electronic gaming machines at eligible pari-mutuel facilities are exempt from the appropriation required by s. 215.20(1), F.S. Electronic gaming is added to s. 849.15(2), F.S., as exempt from the provisions of 15 U.S.C. ss.1171-1177.

Section 24 amends s.550.002(11), F.S., to require a full schedule of live racing or games by jai alai permitholders who operate electronic gaming machines as well as for those who operate slot machines.

**Appropriation**

A specific appropriation is made as follows: for FY 2008-2009, 110 full-time equivalent positions, \$3,551,808 in salary rate and \$9,281,870 in recurring funds and \$4,514,405 in nonrecurring funds from the Pari-mutual Wagering Trust Fund to the Department of Business and Professional Regulation. Direction is given to transfer certain other funds to the Operating Trust Fund of the Department of Law Enforcement.

A specific appropriation is made as follows: for FY 2008-2009, 61 full-time equivalent positions, \$2,604,216 in salary rate and \$4,849,5000 in recurring funds and \$1,176,308 in nonrecurring funds from the Operating Trust Fund of the Department of Law Enforcement.

One million dollars is appropriated annually from the Pari-Mutuel Wagering Trust Fund of DBPR for contract services related to addictive gambling programs.

DBPR may use the unreserved cash balance in the Pari-Mutuel Wagering Trust Fund received from other revenue sources to implement electronic gaming regulation and investigations during fiscal year 2008-2009. Beginning as soon as possible, but no later than the 2009-2010 fiscal year, DBPR will repay the funds with electronic gaming machine license revenue sources.

**Effective Date**

This committee substitute 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. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The committee substitute provides for a license fee of \$3 million per eligible pari-mutuel facility. It also provides a \$250,000 per facility assessment for a prevention of compulsive and addictive gambling program.

**B. Private Sector Impact:**

The pari-mutuel industry could incur costs to comply with the requirements of the bill. The Office of Economic and Demographic Research prepared a preliminary estimate which estimated that the machine income per facility would be \$50.6 million. The total for 20 eligible facilities is estimated at approximately \$1 billion.

**C. Government Sector Impact:**

**Revenue Estimating Conference Estimate:**

The Revenue Estimating Conference estimated the revenue impact of the bill to be:

CS/CS/SB 1380	FY 08-09	FY 09-10	FY 10-11	FY 11-12
<b>Total EGM tax</b>	\$12,157,031	\$97,256,250	\$194,512,500	\$194,512,500
<b>Lottery</b>	(\$763,288)	(\$6,106,303)	(\$12,212,606)	(\$12,212,606)
<b>Slot Machines Tax</b>	(\$434,180)	(\$3,473,438)	(\$6,946,875)	(\$6,946,875)
<b>Sales tax</b>	(\$1,250,438)	(\$10,003,500)	(\$20,007,000)	(\$20,007,000)
<b>Net Revenue EGM's</b>	\$9,709,126	\$77,673,009	\$155,346,019	\$155,346,019
<b>License Fees</b>	\$10,562,500	\$31,687,500	\$42,250,000	\$42,250,000

**Appropriations:**

CS/CS/SB 1380	FY 08-09	FY 09-10
<b>BPR</b>		
<b>Recurring</b>	\$9,281,870	\$9,281,870
<b>Non-recurring</b>	\$4,514,405	
<b>FDLE</b>		
<b>Recurring</b>	\$4,849,500	\$4,849,500
<b>Non-recurring</b>	\$1,176,308	

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<b>Total</b>		
<b>Recurring</b>	\$14,131,370	\$14,131,370
<b>Non-recurring</b>	\$5,690,713	

Section 7 requires the Division to evaluate the license fee and submit recommendations in the legislative budget request regarding the optimum level of electronic gaming machine license fees required to adequately support the regulatory program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Seminole Tribe of Florida entered into a 25-year gambling Compact that was signed by Gov. Crist in November, 2007. The Compact authorizes the Seminole Tribe to operate Class III and other casino-style gaming on tribal land. The Florida House of Representatives brought suit challenging the Governor's authority to enter into the Compact absent legislative approval. An amicus brief was filed by the Florida Senate. The lawsuit is pending and the Contract may eventually be found null and void by the Court. The U.S. Department of Interior has approved the Compact causing the Seminole Tribe to transfer \$50 million to Florida and to begin offering Class III gaming.

Under the terms of the Compact, the Seminole Tribe guarantees an annual minimum payment to the state of \$100 million the first year, \$125 million the second year and not less than \$150 million the third year. Part XII of the Compact provides for the elimination, or reduction, of these payments in the event that there is a loss of exclusivity as defined by the compact. Under the Compact, the Seminole Tribe can suspend payments if Florida allows - other than slots in Broward and Miami-Dade counties - new "casino-style" gambling where results are determined by a random number generator, "including but not limited to (1) electronically-assisted bingo or pull-tab games or (2) video lottery terminals (VLTs) or any similar games that allow direct operation of the games by customers of the Florida Lottery...." The bill is drafted so as not to trigger the exclusivity provisions of the Compact. See *U.S. v. 162 MegaMania Gambling Devices*, 231 F.3d 713 (10th Cir. 2000); *U.S. v. 103 Electronic Gambling Devices*, 223 F.3d 1091 (9th Cir. 2000).

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Regulated Industries Committee on February 12, 2008:**

The committee substitute authorizes an electronic gaming machine licensee rather than a pari-mutuel permit holder to possess and operate electronic gaming machines. It clarifies the definition of bingo. It adds account-based card and account-based credits to the electronic gaming machine definition to conform with the latest technology. It provides that the electronic gaming machines are not subject to the sales tax as vending machines. The committee substitute clarifies the definition for eligible facility. It clarifies that the payout is based on a theoretical payout percentage. It replaces the term permitholder with person or entity licensed to conduct pari-mutuel wagering to add clarity. It adds a severability clause for the provisions concerning mandatory purse and award agreements. The committee substitute specifies that an employee of the division may not have specific relationships with any person or entity licensed by the division. It adds a criminal attempt provision. It allows persons to be taken into custody if there is probable cause and

recovery of the proceeds is possible. It clarifies that only 2,000 machines per facility are allowed regardless of the number of permitholders conducting operations at a given facility. It adds an exception to s. 849.094, F.S. clarifying that the bill does not apply to game promotions and those promotions are governed by s. 849.094, F.S. It provides that any Jai Alai facility that is authorized for electronic gaming machines must conduct a full schedule of games, which is 100 games during the preceding year.

**CS by Finance and Tax Committee on 2/21/2008:**

The committee substitute amends the definition of “Bingo or game of bingo” to mean the game of chance commonly known as bingo, rather than by reference to s. 849.0931(1), F.S. The amendment also provides that the game of bingo may not be an electronic or electromechanical facsimiles of any slot machine of any kind.

Section 4 is amended to separately list each organization with which a licensee must have a written agreement governing the payment of purses and by eliminating certain alternate parties to an agreement and adding others.

Section 24 amends s.550.002(11), F.S., to require a full schedule of live jai alai games by jai alai permitholders who operate electronic gaming machines.

A specific appropriation is made for FY 2008-2009: 110 full-time equivalent positions, \$3,551,808 in salary rate, \$9,281,870 in recurring funds and \$4,514,405 in nonrecurring funds to the Department of Business and Professional Regulation's Pari-mutual Wagering Trust Fund. Direction is given to transfer other funds to the Department of Law Enforcement Operating Trust Fund.

A specific appropriation is made for FY 2008-2009: 61 full-time equivalent positions, \$2,604,216 in salary rate, \$4,849,500 in recurring funds and \$1,176,308 in nonrecurring funds to the Department of Law Enforcement's Operating Trust Fund.

Subsection 550.135(4) F.S., is created to authorize the reservation of appropriated trust funds used to pay incurred operating expenses and meet subsequent fiscal year cash flow needs.

**B. Amendments:**

None.