

By the Committee on Regulated Industries; and Senator Jones

580-04803-10

2010640c1

1 A bill to be entitled
2 An act relating to pari-mutuel wagering; amending s.
3 550.022, F.S.; redefining the term "full schedule of
4 live racing or games" as it relates to certain jai
5 alai permitholders who do not operate slot machines in
6 their pari-mutuel facilities; amending s. 550.0951,
7 F.S.; exempting pari-mutuel wagers at pari-mutuel
8 facilities that do not operate slot machines from the
9 tax on handle; imposing a surcharge on pari-mutuel
10 licensees that do not operate slot machines if the
11 taxes on slot machine revenue are less than a certain
12 amount; specifying the maximum amount of the
13 surcharge; providing for the calculation of the pro
14 rata share of the surcharge for each pari-mutuel
15 licensee that does not operate slot machines;
16 specifying an exemption that may apply to the
17 surcharge; providing for rules to set cost of
18 regulation; amending s. 551.104, F.S.; revising slot
19 machine license requirements; requiring a written
20 agreement as a condition of license issuance or
21 renewal; amending s. 849.086, F.S.; exempting a pari-
22 mutuel facility that operates a cardroom but does not
23 operate slot machines from the tax on the gross
24 receipts of the cardroom operations; revising the
25 amounts that greyhound and jai alai permitholders that
26 operate cardrooms must use to supplement greyhound
27 purses or jai alai prize money; providing an effective
28 date.
29

580-04803-10

2010640c1

30 Be It Enacted by the Legislature of the State of Florida:

31 Section 1. Subsection (11) of section 550.002, Florida
32 Statutes, as amended by section 4 of chapter 2009-170, Laws of
33 Florida, is amended to read:

34 550.002 Definitions.—As used in this chapter, the term:

35 (11) "Full schedule of live racing or games" means, for a
36 greyhound or jai alai permitholder, the conduct of a combination
37 of at least 100 live evening or matinee performances during the
38 preceding year; for a permitholder who has a converted permit or
39 filed an application on or before June 1, 1990, for a converted
40 permit, the conduct of a combination of at least 100 live
41 evening and matinee wagering performances during either of the 2
42 preceding years; for a jai alai permitholder who does not
43 operate slot machines in its pari-mutuel facility, who has
44 conducted at least 100 live performances per year for at least 3
45 consecutive ~~10~~ years after December 31, 1992, and whose handle
46 on live jai alai games conducted at its pari-mutuel facility has
47 been less than \$4 million per state fiscal year for at least 2
48 consecutive years after June 30, 1992, the conduct of a
49 combination of at least 40 live evening or matinee performances
50 during the preceding year; for a jai alai permitholder who
51 operates slot machines in its pari-mutuel facility, the conduct
52 of a combination of at least 150 performances during the
53 preceding year; for a harness permitholder, the conduct of at
54 least 100 live regular wagering performances during the
55 preceding year; for a quarter horse permitholder at its facility
56 unless an alternative schedule of at least 20 live regular
57 wagering performances is agreed upon by the permitholder and
58 either the Florida Quarter Horse Racing Association or the

580-04803-10

2010640c1

59 horsemen's association representing the majority of the quarter
60 horse owners and trainers at the facility and filed with the
61 division along with its annual date application, in the 2010-
62 2011 fiscal year, the conduct of at least 20 regular wagering
63 performances, in the 2011-2012 and 2012-2013 fiscal years, the
64 conduct of at least 30 live regular wagering performances, and
65 for every fiscal year after the 2012-2013 fiscal year, the
66 conduct of at least 40 live regular wagering performances; for a
67 quarter horse permitholder leasing another licensed racetrack,
68 the conduct of 160 events at the leased facility; and for a
69 thoroughbred permitholder, the conduct of at least 40 live
70 regular wagering performances during the preceding year. For a
71 permitholder which is restricted by statute to certain operating
72 periods within the year when other members of its same class of
73 permit are authorized to operate throughout the year, the
74 specified number of live performances which constitute a full
75 schedule of live racing or games shall be adjusted pro rata in
76 accordance with the relationship between its authorized
77 operating period and the full calendar year and the resulting
78 specified number of live performances shall constitute the full
79 schedule of live games for such permitholder and all other
80 permitholders of the same class within 100 air miles of such
81 permitholder. A live performance must consist of no fewer than
82 eight races or games conducted live for each of a minimum of
83 three performances each week at the permitholder's licensed
84 facility under a single admission charge.

85 Section 2. Subsection (5) of section 550.0951, Florida
86 Statutes, as amended by section 7 of chapter 2009-170, Laws of
87 Florida, is amended to read:

580-04803-10

2010640c1

88 550.0951 Payment of daily license fee and taxes;
89 penalties.—

90 (5) PAYMENT AND DISPOSITION OF FEES AND TAXES.—

91 (a) Payments imposed by this section shall be paid to the
92 division. The division shall deposit these sums with the Chief
93 Financial Officer, to the credit of the Pari-mutuel Wagering
94 Trust Fund, hereby established. The permitholder shall remit to
95 the division payment for the daily license fee, the admission
96 tax, the tax on handle, and the breaks tax. Such payments shall
97 be remitted by 3 p.m. Wednesday of each week for taxes imposed
98 and collected for the preceding week ending on Sunday. Beginning
99 on July 1, 2012, such payments shall be remitted by 3 p.m. on
100 the 5th day of each calendar month for taxes imposed and
101 collected for the preceding calendar month. If the 5th day of
102 the calendar month falls on a weekend, payments shall be
103 remitted by 3 p.m. the first Monday following the weekend.
104 Permitholders shall file a report under oath by the 5th day of
105 each calendar month for all taxes remitted during the preceding
106 calendar month. Such payments shall be accompanied by a report
107 under oath showing the total of all admissions, the pari-mutuel
108 wagering activities for the preceding calendar month, and such
109 other information as may be prescribed by the division.

110 (b) Notwithstanding any other law, a pari-mutuel wager
111 placed at a pari-mutuel facility that does not operate slot
112 machines, directly or through a host facility, and regardless of
113 whether such wager was made on a live, intertrack, or simulcast
114 race or game, is exempt from the tax otherwise due and payable
115 on handle on a wager placed at the pari-mutuel facility.

116 (c) If, during any state fiscal year, the aggregate amount

580-04803-10

2010640c1

117 of tax on slot machine revenue paid to the state by all pari-
118 mutuel licensees for the operation of slot machines is less than
119 the aggregate amount of tax paid on slot machine revenue by all
120 pari-mutuel licensees in the 2008-2009 state fiscal year plus
121 the amount of the tax exemptions in paragraph (b) and s.
122 849.086(13) (a), a surcharge shall be imposed on pari-mutuel
123 licensees that do not operate slot machines. The surcharge
124 equals the difference between the aggregate amount of tax paid
125 by all pari-mutuel licensees on slot machine revenue in the
126 2008-2009 state fiscal year plus the amount of the tax
127 exemptions in paragraph (b) and s. 849.086(13) (a) and the
128 aggregate amount of tax on slot machine revenue paid to the
129 state by all pari-mutuel licensees in the applicable state
130 fiscal year, not to exceed \$15 million. Each pari-mutuel
131 facility that does not operate slot machines shall pay its pro
132 rata share of the surcharge to the state within 45 days after
133 the end of the state fiscal year. The pro rata share of the
134 surcharge for each licensee that does not operate slot machines
135 shall be calculated as the total amount of taxes that would have
136 been due to the state if the exemptions under paragraph (b) and
137 s. 849.086(13) (a) did not apply, divided by the total of such
138 amounts for all licensees that did not operate slot machines.

139 (d) A pari-mutuel licensee that does not operate slot
140 machines may apply the exemption to the tax on handle under s.
141 550.09514(1) to the surcharge under paragraph (c). The surcharge
142 under paragraph (c) may not be reduced by any other exemption.

143 (e) This subsection does not affect the calculation and
144 payment of greyhound purses or jai-alai prize money.

145 (f) The Division of Pari-mutuel Wagering is authorized to

580-04803-10

2010640c1

146 collect a fee from each pari-mutuel permitholder that does not
147 operate slot machines for use by the division to cover the cost
148 of regulation of said pari-mutuel permitholders which is not
149 funded by current revenue sources. The division shall adopt
150 rules to set the fee level and method of collection.

151 Section 3. Paragraphs (a) and (c) of subsection (10) of
152 section 551.104, Florida Statutes, as amended by section 20 of
153 chapter 2009-170, Laws of Florida, is amended to read:

154 551.104 License to conduct slot machine gaming.—

155 (10) (a)1. No slot machine license or renewal thereof shall
156 be issued to an applicant holding a permit under chapter 550 to
157 conduct pari-mutuel wagering meets of thoroughbred racing unless
158 the applicant has on file with the division a binding written
159 agreement between the applicant and the Florida Horsemen's
160 Benevolent and Protective Association, Inc., governing the
161 payment of purses on live thoroughbred races conducted at the
162 licensee's pari-mutuel facility. In addition, no slot machine
163 license or renewal thereof shall be issued to such an applicant
164 unless the applicant has on file with the division a binding
165 written agreement between the applicant and the Florida
166 Thoroughbred Breeders' Association, Inc., governing the payment
167 of breeders', stallion, and special racing awards on live
168 thoroughbred races conducted at the licensee's pari-mutuel
169 facility. The agreement governing purses and the agreement
170 governing awards may direct the payment of such purses and
171 awards from revenues generated by any wagering or gaming the
172 applicant is authorized to conduct under Florida law. All purses
173 and awards shall be subject to the terms of chapter 550. All
174 sums for breeders', stallion, and special racing awards shall be

580-04803-10

2010640c1

175 remitted monthly to the Florida Thoroughbred Breeders'
176 Association, Inc., for the payment of awards subject to the
177 administrative fee authorized in s. 550.2625(3).

178 2. No slot machine license or renewal thereof shall be
179 issued to an applicant holding a permit under chapter 550 to
180 conduct pari-mutuel wagering meets of quarter horse racing
181 unless the applicant has on file with the division a binding
182 written agreement between the applicant and the Florida Quarter
183 Horse Racing Association or the association representing a
184 majority of the horse owners and trainers at the applicant's
185 eligible facility, governing the payment of purses on live
186 quarter horse races conducted at the licensee's pari-mutuel
187 facility. The agreement governing purses may direct the payment
188 of such purses from revenues generated by any wagering or gaming
189 the applicant is authorized to conduct under Florida law. All
190 purses shall be subject to the terms of chapter 550.

191 3. No slot machine license or renewal thereof shall be
192 issued to an applicant holding a permit under chapter 550 to
193 conduct pari-mutuel wagering meets of standardbred horse racing
194 unless the applicant has on file with the division a binding
195 written agreement between the applicant and the Florida
196 Standardbred Breeders and Owners Association governing the
197 payment of purses on live standardbred horse races conducted at
198 the licensee's pari-mutuel facility. The agreement governing
199 purses may direct the payment of such purses from revenues
200 generated by any wagering or gaming that the applicant is
201 authorized to conduct under Florida law. All purses shall be
202 subject to the terms of chapter 550.

203 (b) The division shall suspend a slot machine license if

580-04803-10

2010640c1

204 one or more of the agreements required under paragraph (a) are
205 terminated or otherwise cease to operate or if the division
206 determines that the licensee is materially failing to comply
207 with the terms of such an agreement. Any such suspension shall
208 take place in accordance with chapter 120.

209 (c)1. If an agreement required under paragraph (a) cannot
210 be reached prior to the initial issuance of the slot machine
211 license, either party may request arbitration or, in the case of
212 a renewal, if an agreement required under paragraph (a) is not
213 in place 120 days prior to the scheduled expiration date of the
214 slot machine license, the applicant shall immediately ask the
215 American Arbitration Association to furnish a list of 11
216 arbitrators, each of whom shall have at least 5 years of
217 commercial arbitration experience and no financial interest in
218 or prior relationship with any of the parties or their
219 affiliated or related entities or principals. Each required
220 party to the agreement shall select a single arbitrator from the
221 list provided by the American Arbitration Association within 10
222 days of receipt, and the individuals so selected shall choose
223 one additional arbitrator from the list within the next 10 days.

224 2. If an agreement required under paragraph (a) is not in
225 place 60 days after the request under subparagraph 1. in the
226 case of an initial slot machine license or, in the case of a
227 renewal, 60 days prior to the scheduled expiration date of the
228 slot machine license, the matter shall be immediately submitted
229 to mandatory binding arbitration to resolve the disagreement
230 between the parties. The three arbitrators selected pursuant to
231 subparagraph 1. shall constitute the panel that shall arbitrate
232 the dispute between the parties pursuant to the American

580-04803-10

2010640c1

233 Arbitration Association Commercial Arbitration Rules and chapter
234 682.

235 3. At the conclusion of the proceedings, which shall be no
236 later than 90 days after the request under subparagraph 1. in
237 the case of an initial slot machine license or, in the case of a
238 renewal, 30 days prior to the scheduled expiration date of the
239 slot machine license, the arbitration panel shall present to the
240 parties a proposed agreement that the majority of the panel
241 believes equitably balances the rights, interests, obligations,
242 and reasonable expectations of the parties. The parties shall
243 immediately enter into such agreement, which shall satisfy the
244 requirements of paragraph (a) and permit issuance of the pending
245 annual slot machine license or renewal. The agreement produced
246 by the arbitration panel under this subparagraph shall be
247 effective until the last day of the license or renewal period or
248 until the parties enter into a different agreement. Each party
249 shall pay its respective costs of arbitration and shall pay one-
250 half of the costs of the arbitration panel, unless the parties
251 otherwise agree. If the agreement produced by the arbitration
252 panel under this subparagraph remains in place 120 days prior to
253 the scheduled issuance of the next annual license renewal, then
254 the arbitration process established in this paragraph will begin
255 again.

256 4. In the event that ~~neither of the agreements required~~
257 ~~under paragraph (a) subparagraph (a)1. or the agreement required~~
258 ~~under subparagraph (a)2.~~ are not in place by the deadlines
259 established in this paragraph, arbitration regarding each
260 agreement will proceed independently, with separate lists of
261 arbitrators, arbitration panels, arbitration proceedings, and

580-04803-10

2010640c1

262 resulting agreements.

263 5. With respect to the agreements required under paragraph
264 (a) governing the payment of purses, the arbitration and
265 resulting agreement called for under this paragraph shall be
266 limited to the payment of purses from slot machine revenues
267 only.

268 Section 4. Paragraphs (a) and (d) of subsection (13) of
269 section 849.086, Florida Statutes, as amended by section 24 of
270 chapter 2009-170, Laws of Florida, are amended to read:

271 849.086 Cardrooms authorized.—

272 (13) TAXES AND OTHER PAYMENTS.—

273 (a) Each cardroom operator shall pay a tax to the state of
274 10 percent of the cardroom operation's monthly gross receipts.
275 However, a pari-mutuel facility that does not operate slot
276 machines is exempt from the tax under this paragraph.

277 (d)1. Each greyhound and jai alai permitholder that
278 operates a cardroom facility and slot machines shall use at
279 least 4 percent of such permitholder's cardroom monthly gross
280 receipts to supplement greyhound purses or jai alai prize money,
281 respectively, during the permitholder's next ensuing pari-mutuel
282 meet. Each greyhound and jai alai permitholder that operates a
283 cardroom facility but does not operate slot machines shall use
284 at least 6 percent of such permitholder's cardroom monthly gross
285 receipts to supplement greyhound purses or jai alai prize money,
286 respectively, during the permitholder's next ensuing pari-mutuel
287 meet.

288 2. Each thoroughbred and harness horse racing permitholder
289 that operates a cardroom facility shall use at least 50 percent
290 of such permitholder's cardroom monthly net proceeds as follows:

580-04803-10

2010640c1

291 47 percent to supplement purses and 3 percent to supplement
292 breeders' awards during the permit holder's next ensuing racing
293 meet.

294 3. No cardroom license or renewal thereof shall be issued
295 to an applicant holding a permit under chapter 550 to conduct
296 pari-mutuel wagering meets of quarter horse racing unless the
297 applicant has on file with the division a binding written
298 agreement between the applicant and the Florida Quarter Horse
299 Racing Association or the association representing a majority of
300 the horse owners and trainers at the applicant's eligible
301 facility, governing the payment of purses on live quarter horse
302 races conducted at the licensee's pari-mutuel facility. The
303 agreement governing purses may direct the payment of such purses
304 from revenues generated by any wagering or gaming the applicant
305 is authorized to conduct under Florida law. All purses shall be
306 subject to the terms of chapter 550.

307 Section 5. This act shall take effect July 1, 2010.