

1                   A bill to be entitled  
2           An act relating to the prohibition of simulated  
3           gambling devices; creating the "Simulated Gambling  
4           Prohibition and Community Protection Act"; providing  
5           legislative findings and intent; amending s. 849.0935,  
6           F.S., relating to drawings by chance offered by  
7           nonprofit organizations; revising definitions;  
8           revising conditions for exceptions to prohibitions on  
9           lotteries; prohibiting the use of certain devices  
10          operated by drawing entrants; providing penalties;  
11          amending s. 849.094, F.S.; removing duties and  
12          responsibilities from the Department of Agriculture  
13          and Consumer Services; defining the term "department"  
14          as the Department of Business and Professional  
15          Regulation; revising definitions; prohibiting  
16          specified nonprofit organizations from operating a  
17          game promotion; providing conditions for exceptions to  
18          prohibitions on lotteries; prohibiting the use of  
19          certain devices operated by game promotion entrants;  
20          revising procedures for operation of a game promotion;  
21          authorizing the department to waive specified security  
22          requirements under certain conditions; providing  
23          duties and responsibilities of the department;  
24          authorizing the department to adopt rules; providing  
25          for construction; authorizing the department to bring  
26          an action to enjoin a game promotion that is in  
27          violation of specified provisions; providing  
28          penalties; providing that violations are deceptive and

29 | unfair trade practices; revising applicability  
 30 | provisions; amending s. 849.15, F.S.; prohibiting  
 31 | production, possession, or distribution of gambling  
 32 | apparatus; amending s. 849.16, F.S.; defining the term  
 33 | "slot machine or device" for purposes of specified  
 34 | gambling provisions; providing a rebuttable  
 35 | presumption that a device is a prohibited slot  
 36 | machine; amending s. 895.02, F.S.; revising the  
 37 | definition of the term "racketeering activity" to  
 38 | include violations of specified provisions; providing  
 39 | for construction of the act; amending s. 721.111,  
 40 | F.S., relating to promotional offers; conforming  
 41 | cross-references; reenacting ss. 16.56(1)(a),  
 42 | 338.234(1), 655.50(3)(g), 849.19, 896.101(2)(g), and  
 43 | 905.34(3), F.S., relating to the Office of Statewide  
 44 | Prosecution, the Florida Turnpike, money laundering,  
 45 | seizure of property, the Florida Money Laundering Act,  
 46 | and a statewide grand jury, respectively, to  
 47 | incorporate changes made by the act in references  
 48 | thereto; providing an effective date.

49 |  
 50 | Be It Enacted by the Legislature of the State of Florida:

51 |  
 52 | Section 1. (1) This act may be cited as the "Simulated  
 53 | Gambling Prohibition and Community Protection Act."

54 | (2) The Legislature finds that there is a compelling state  
 55 | interest in addressing the deleterious effects of the  
 56 | proliferation of electronic machines and devices used for

57 simulated gambling. The Legislature declares that it is the  
 58 intent of this act to prohibit the use of such devices.

59 Section 2. Paragraph (a) of subsection (1) and subsections  
 60 (2), (4), and (7) of section 849.0935, Florida Statutes, are  
 61 amended to read:

62 849.0935 Charitable, nonprofit organizations; drawings by  
 63 chance; required disclosures; unlawful acts and practices;  
 64 penalties.—

65 (1) As used in this section, the term:

66 (a) "Drawing by chance," ~~or~~ "drawing," or "raffle" means  
 67 an enterprise in which, from the entries submitted by the public  
 68 to the organization conducting the drawing, one or more entries  
 69 are selected by chance to win a prize. The term "drawing" does  
 70 not include those enterprises, commonly known as "game  
 71 promotions," as defined by s. 849.094, "matching," "instant  
 72 winner," or "preselected sweepstakes," which involve the  
 73 distribution of winning numbers, previously designated as such,  
 74 to the public.

75 (2) The provisions of s. 849.09 shall not be construed to  
 76 prohibit an organization ~~qualified under 26 U.S.C. s. 501(e)(3),~~  
 77 ~~(4), (7), (8), (10), or (19)~~ from conducting drawings by chance  
 78 pursuant to the authority granted by this section, provided the  
 79 organization has complied with all applicable provisions of  
 80 chapter 496 and this section. Authority to conduct drawings by  
 81 chance pursuant to this section does not provide an exemption to  
 82 s. 849.01, s. 849.15, or any other law.

83 (4) It is unlawful for any organization that ~~which,~~  
 84 pursuant to the authority granted by this section, promotes,

85 operates, or conducts a drawing by chance:

86 (a) To design, engage in, promote, or conduct any drawing  
 87 in which the winner is predetermined by means of matching,  
 88 instant win, or preselected sweepstakes or otherwise or in which  
 89 the selection of the winners is in any way rigged;

90 (b) To require an entry fee, donation, substantial  
 91 consideration, payment, proof of purchase, or contribution as a  
 92 condition of entering the drawing or of being selected to win a  
 93 prize. However, this provision shall not prohibit an  
 94 organization from suggesting a minimum donation or from  
 95 including a statement of such suggested minimum donation on any  
 96 printed material used ~~utilized~~ in connection with the  
 97 fundraising event or drawing;

98 (c) To condition the drawing on a minimum number of  
 99 tickets having been disbursed to contributors or on a minimum  
 100 amount of contributions having been received;

101 (d) To arbitrarily remove, disqualify, disallow, or reject  
 102 any entry or to discriminate in any manner between entrants who  
 103 gave contributions to the organization and those who did not  
 104 give such contributions;

105 (e) To fail to promptly notify, at the address set forth  
 106 on the entry blank, any person, whose entry is selected to win,  
 107 of the fact that he or she won;

108 (f) To fail to award all prizes offered;

109 (g) To print, publish, or circulate literature or  
 110 advertising material used in connection with the drawing which  
 111 is false, deceptive, or misleading;

112 (h) To cancel a drawing; ~~or~~

CS/HB 3

2012

113 (i) To condition the acquisition or giveaway of any prize  
114 upon the receipt of voluntary donations or contributions; ~~or-~~

115 (j) To design, engage in, promote, or conduct any drawing  
116 through the use of any mechanically or electronically operated  
117 machine, network, system, or device that is:

118 1. Owned, leased, or otherwise controlled by the  
119 organization or a partner, affiliate, subsidiary, contractor, or  
120 agent of the organization; and

121 2. Operated, played, or otherwise interacted with by an  
122 entrant to the drawing.

123 ~~(7) (a) Any organization which engages in any act or~~  
124 ~~practice in violation of this section is guilty of a misdemeanor~~  
125 ~~of the second degree, punishable as provided in s. 775.082 or s.~~  
126 ~~775.083. However,~~ Any organization or other person who sells or  
127 offers for sale in this state a ticket or entry blank for a  
128 raffle or other drawing by chance, without complying with the  
129 requirements of paragraph (3) (d), commits ~~is guilty of~~ a  
130 misdemeanor of the second degree, punishable by fine only as  
131 provided in s. 775.083.

132 (b) Any organization or person who violates paragraph  
133 (4) (j) commits a misdemeanor of the first degree, punishable as  
134 provided in s. 775.082 or s. 775.083.

135 (c) Any organization that engages in any other act or  
136 practice in violation of this section commits a misdemeanor of  
137 the second degree, punishable as provided in s. 775.082 or s.  
138 775.083.

139 Section 3. Section 849.094, Florida Statutes, is amended  
140 to read:

141 849.094 Game promotion in connection with sale of consumer  
 142 products or services.-

143 (1) As used in this section, the term:

144 (a) "Department" means the Department of Business and  
 145 Professional Regulation.

146 (b)-(a) "Game promotion" means, but is not limited to, a  
 147 contest, game of chance, sweepstakes, or gift enterprise,  
 148 conducted by an operator within or throughout the state and  
 149 other states in connection with and incidental to the sale of  
 150 consumer products or services, and in which the elements of  
 151 chance and prize are present. However, "game promotion" may  
 152 shall not be construed to apply to bingo games conducted  
 153 pursuant to s. 849.0931.

154 (c)-(b) "Operator" means any person, firm, corporation,  
 155 enterprise, organization, or association or agent or employee  
 156 thereof who promotes, operates, or conducts a game promotion,  
 157 except any charitable nonprofit organization.

158 (2) The provisions of s. 849.09 may not be construed to  
 159 prohibit an operator from conducting a game promotion pursuant  
 160 to this section, provided the operator has complied with the  
 161 provisions of this section. Authority to conduct game promotions  
 162 pursuant to this section does not provide an exemption to s.  
 163 849.01, s. 849.15, or any other law.

164 (3) An organization, as defined by s. 849.0935, may not  
 165 operate a game promotion.

166 (4)-(2) It is unlawful for any operator:

167 (a) To design, engage in, promote, or conduct such a game  
 168 promotion through the use of any mechanically or electronically

169 | operated machine, network, system, or device that is:  
 170 |       1. Owned, leased, or otherwise controlled by the  
 171 | organization or the organization's partners, affiliates,  
 172 | subsidiaries, contractors, or agents; and  
 173 |       2. Operated, played, or otherwise interacted with by an  
 174 | entrant to the game promotion.  
 175 |       (b)-(a) To design, engage in, promote, or conduct such a  
 176 | game promotion, in connection with the promotion or sale of  
 177 | consumer products or services, wherein the winner may be  
 178 | predetermined or the game may be manipulated or rigged so as to:  
 179 |       1. Allocate a winning game or any portion thereof to  
 180 | certain lessees, agents, or franchises; or  
 181 |       2. Allocate a winning game or part thereof to a particular  
 182 | period of the game promotion or to a particular geographic area;  
 183 |       (c)-(b) Arbitrarily to remove, disqualify, disallow, or  
 184 | reject any entry;  
 185 |       (d)-(e) To fail to award prizes offered;  
 186 |       (e)-(d) To print, publish, or circulate literature or  
 187 | advertising material used in connection with such game  
 188 | promotions which is false, deceptive, or misleading; or  
 189 |       (f)-(e) To require an entry fee, payment, or proof of  
 190 | purchase as a condition of entering a game promotion.  
 191 |       (5)-(3) The operator of a game promotion in which the total  
 192 | announced value of the prizes offered is greater than \$5,000  
 193 | shall file with the department ~~of Agriculture and Consumer~~  
 194 | ~~Services~~ a copy of the rules and regulations of the game  
 195 | promotion and a list of all prizes and prize categories offered  
 196 | at least 7 days before the commencement of the game promotion.

CS/HB 3

2012

197 Such rules and regulations may not thereafter be changed,  
198 modified, or altered. The operator of a game promotion shall  
199 conspicuously post the rules and regulations of such game  
200 promotion in each and every retail outlet or place where such  
201 game promotion may be played or participated in by the public  
202 and shall also publish the rules and regulations in all  
203 advertising copy used in connection therewith. However, such  
204 advertising copy need only include the material terms of the  
205 rules and regulations if the advertising copy includes a website  
206 address, a toll-free telephone number, or a mailing address  
207 where the full rules and regulations may be viewed, heard, or  
208 obtained for the full duration of the game promotion. Such  
209 disclosures must be legible. Radio and television announcements  
210 may indicate that the rules and regulations are available at  
211 retail outlets or from the operator of the promotion. A  
212 nonrefundable filing fee of \$100 shall accompany each filing and  
213 shall be used to pay the costs incurred in administering and  
214 enforcing the provisions of this section.

215 (6)~~(4)~~(a) Every operator of such a game promotion in which  
216 the total announced value of the prizes offered is greater than  
217 \$5,000 shall establish a trust account, in a national or state-  
218 chartered financial institution, with a balance sufficient to  
219 pay or purchase the total value of all prizes offered. On a form  
220 supplied by the department ~~of Agriculture and Consumer Services,~~  
221 an official of the financial institution holding the trust  
222 account shall set forth the dollar amount of the trust account,  
223 the identity of the entity or individual establishing the trust  
224 account, and the name of the game promotion for which the trust



CS/HB 3

2012

225 account has been established. Such form shall be filed with the  
 226 department ~~of Agriculture and Consumer Services~~ at least 7 days  
 227 in advance of the commencement of the game promotion. In lieu of  
 228 establishing such trust account, the operator may obtain a  
 229 surety bond in an amount equivalent to the total value of all  
 230 prizes offered; and such bond shall be filed with the department  
 231 ~~of Agriculture and Consumer Services~~ at least 7 days in advance  
 232 of the commencement of the game promotion.

233 1. The moneys held in the trust account may be withdrawn  
 234 in order to pay the prizes offered only upon certification to  
 235 the department ~~of Agriculture and Consumer Services~~ of the name  
 236 of the winner or winners and the amount of the prize or prizes  
 237 and the value thereof.

238 2. If the operator of a game promotion has obtained a  
 239 surety bond in lieu of establishing a trust account, the amount  
 240 of the surety bond shall equal at all times the total amount of  
 241 the prizes offered.

242 (b) The department ~~of Agriculture and Consumer Services~~  
 243 may waive the provisions of this subsection for any operator who  
 244 has conducted game promotions in the state for not less than 5  
 245 consecutive years and who has not had any civil, criminal, or  
 246 administrative action instituted against him or her by the state  
 247 or an agency of the state for violation of this section within  
 248 that 5-year period. Such waiver may be revoked upon the  
 249 commission of a violation of this section by such operator, as  
 250 determined by the department ~~of Agriculture and Consumer~~  
 251 ~~Services~~.

252 (7) ~~(5)~~ Every operator of a game promotion in which the

CS/HB 3

2012

253 total announced value of the prizes offered is greater than  
254 \$5,000 shall provide the department ~~of Agriculture and Consumer~~  
255 ~~Services~~ with a certified list of the names and addresses of all  
256 persons, whether from this state or from another state, who have  
257 won prizes which have a value of more than \$25, the value of  
258 such prizes, and the dates when the prizes were won within 60  
259 days after such winners have been finally determined. The  
260 operator shall provide a copy of the list of winners, without  
261 charge, to any person who requests it. In lieu of the foregoing,  
262 the operator of a game promotion may, at his or her option,  
263 publish the same information about the winners in a Florida  
264 newspaper of general circulation within 60 days after such  
265 winners have been determined and shall provide to the department  
266 ~~of Agriculture and Consumer Services~~ a certified copy of the  
267 publication containing the information about the winners. The  
268 operator of a game promotion is not required to notify a winner  
269 by mail or by telephone when the winner is already in possession  
270 of a game card from which the winner can determine that he or  
271 she has won a designated prize. All winning entries shall be  
272 held by the operator for a period of 90 days after the close or  
273 completion of the game.

274 (8) ~~(6)~~ The department ~~of Agriculture and Consumer Services~~  
275 shall keep the certified list of winners for a period of at  
276 least 6 months after receipt of the certified list. The  
277 department thereafter may dispose of all records and lists.

278 (9) ~~(7)~~ No operator shall force, directly or indirectly, a  
279 lessee, agent, or franchise dealer to purchase or participate in  
280 any game promotion. For the purpose of this section, coercion or

CS/HB 3

2012

281 force shall be presumed in these circumstances in which a course  
282 of business extending over a period of 1 year or longer is  
283 materially changed coincident with a failure or refusal of a  
284 lessee, agent, or franchise dealer to participate in such game  
285 promotions. Such force or coercion shall further be presumed  
286 when an operator advertises generally that game promotions are  
287 available at its lessee dealers or agent dealers.

288 (10)~~(8)~~ (a) The department may adopt ~~of Agriculture and~~  
289 ~~Consumer Services shall have the power to promulgate~~ such rules  
290 and regulations respecting the operation of game promotions as  
291 it deems ~~may deem~~ advisable.

292 (b) Compliance with the rules of the department does not  
293 authorize and is not a defense to a charge of possession of a  
294 slot machine or device or any other device or a violation of any  
295 other law.

296 (c)~~(b)~~ Whenever the department ~~of Agriculture and Consumer~~  
297 ~~Services~~ or the Department of Legal Affairs has reason to  
298 believe that a game promotion is being operated in violation of  
299 this section, it may bring an action in the circuit court of any  
300 judicial circuit in which the game promotion is being operated  
301 in the name and on behalf of the people of the state against any  
302 operator thereof to enjoin the continued operation of such game  
303 promotion anywhere within the state.

304 (11)~~(9)~~ (a) Any person, firm, or corporation, or  
305 association or agent or employee thereof, who engages in any  
306 acts or practices stated in this section to be unlawful, or who  
307 violates any of the rules and regulations made pursuant to this  
308 section, commits ~~is guilty of~~ a misdemeanor of the second

309 degree, punishable as provided in s. 775.082 or s. 775.083.

310 (b) Any person, firm, or corporation, or association or  
 311 agent or employee thereof, who violates paragraph (4) (a) commits  
 312 a felony of the third degree, punishable as provided in s.  
 313 775.082, s. 775.083, or s. 775.084.

314 (c) ~~(b)~~ Any person, firm, corporation, association, agent,  
 315 or employee who violates any provision of this section or any of  
 316 the rules and regulations made pursuant to this section shall be  
 317 liable for a civil penalty of not more than \$1,000 for each such  
 318 violation, which shall accrue to the state and may be recovered  
 319 in a civil action brought by the department of ~~Agriculture and~~  
 320 ~~Consumer Services~~ or the Department of Legal Affairs.

321 (12) A violation of this section, or soliciting another to  
 322 do an act which violates this section, is a deceptive and unfair  
 323 trade practice.

324 (13) ~~(10) This section does not apply to actions or~~  
 325 ~~transactions regulated by the Department of Business and~~  
 326 ~~Professional Regulation or to the activities of nonprofit~~  
 327 ~~organizations or to any other organization engaged in any~~  
 328 ~~enterprise other than the sale of consumer products or services.~~  
 329 Subsections ~~(3), (4),~~ (5), (6), ~~and~~ (7), (8), and (9) and  
 330 paragraph (10) ~~(8)~~ (a) and any of the rules made pursuant thereto  
 331 do not apply to television or radio broadcasting companies  
 332 licensed by the Federal Communications Commission.

333 Section 4. Subsection (1) of section 849.15, Florida  
 334 Statutes, is amended to read:

335 849.15 Manufacture, sale, possession, etc., of coin-  
 336 operated devices prohibited.—

CS/HB 3

2012

337 (1) It is unlawful:

338 (a) To manufacture, own, store, keep, possess, sell, rent,  
 339 lease, let on shares, lend or give away, transport, or expose  
 340 for sale or lease, or to offer to sell, rent, lease, let on  
 341 shares, lend or give away, or permit the operation of, or for  
 342 any person to permit to be placed, maintained, or used or kept  
 343 in any room, space, or building owned, leased, or occupied by  
 344 the person or under the person's management or control, any slot  
 345 machine or device or any part thereof, or other gambling  
 346 apparatus or any part thereof that is otherwise prohibited from  
 347 operation or possession in the state; or

348 (b) To make or to permit to be made with any person any  
 349 agreement with reference to any slot machine or device, pursuant  
 350 to which the user thereof, as a result of any element of chance  
 351 or other outcome unpredictable to him or her, may become  
 352 entitled to receive any money, credit, allowance, or thing of  
 353 value or additional chance or right to use such machine or  
 354 device, or to receive any check, slug, token, or memorandum  
 355 entitling the holder to receive any money, credit, allowance, or  
 356 thing of value.

357 Section 5. Section 849.16, Florida Statutes, is amended to  
 358 read:

359 849.16 Machines or devices which come within provisions of  
 360 law defined.—

361 (1) As used in this chapter, the term "slot machine or  
 362 device" means any machine or device or system or network of  
 363 devices ~~is a slot machine or device within the provisions of~~  
 364 ~~this chapter if it is one~~ that is adapted for use in such a way

365 that, as a result of the exchange of any consideration  
 366 whatsoever ~~insertion of any piece of money, coin, or other~~  
 367 ~~object,~~ such ~~machine or device~~ or system is directly or  
 368 indirectly caused to operate or may be operated and if the user,  
 369 whether by application of skill or by reason of any element of  
 370 chance or ~~of any other outcome of such operation~~ unpredictable  
 371 by him or her, may:

372 (a) Receive or become entitled to receive any piece of  
 373 money, credit, allowance, or thing of value, or any check, slug,  
 374 token, or memorandum, whether of value or otherwise, which may  
 375 be exchanged for any money, credit, allowance, or thing of value  
 376 or which may be given in trade; or

377 (b) Secure additional chances or rights to use such  
 378 machine, apparatus, or device, even though the device or system  
 379 ~~it~~ may be available for free play or, in addition to any element  
 380 of chance or unpredictable outcome of such operation, may also  
 381 sell, deliver, or present some merchandise, indication of  
 382 weight, entertainment, or other thing of value. The term "slot  
 383 machine or device" includes, but is not limited to, devices  
 384 regulated as slot machines pursuant to chapter 551.

385 (2) Nothing contained in this chapter shall be construed,  
 386 interpreted, or applied to the possession of a reverse vending  
 387 machine. As used in this section, a reverse vending machine is a  
 388 machine into which empty beverage containers are deposited for  
 389 recycling and which provides a payment of money, merchandise,  
 390 vouchers, or other incentives. At a frequency less than upon the  
 391 deposit of each beverage container, a reverse vending machine  
 392 may pay out a random incentive bonus greater than that

393 guaranteed payment in the form of money, merchandise, vouchers,  
 394 or other incentives. The deposit of any empty beverage container  
 395 into a reverse vending machine does not constitute consideration  
 396 nor shall a reverse vending machine be deemed to be a slot  
 397 machine within this section.

398 (3) There is a rebuttable presumption that a device is a  
 399 prohibited slot machine if it is used to simulate games of  
 400 chance and is part of a scheme requiring any consideration  
 401 whatsoever and awarding any thing of value.

402 Section 6. Paragraph (a) of subsection (1) of section  
 403 895.02, Florida Statutes, is amended to read:

404 895.02 Definitions.—As used in ss. 895.01-895.08, the  
 405 term:

406 (1) "Racketeering activity" means to commit, to attempt to  
 407 commit, to conspire to commit, or to solicit, coerce, or  
 408 intimidate another person to commit:

409 (a) Any crime that is chargeable by petition, indictment,  
 410 or information under the following provisions of the Florida  
 411 Statutes:

412 1. Section 210.18, relating to evasion of payment of  
 413 cigarette taxes.

414 2. Section 316.1935, relating to fleeing or attempting to  
 415 elude a law enforcement officer and aggravated fleeing or  
 416 eluding.

417 3. Section 403.727(3)(b), relating to environmental  
 418 control.

419 4. Section 409.920 or s. 409.9201, relating to Medicaid  
 420 fraud.

- 421           5. Section 414.39, relating to public assistance fraud.
- 422           6. Section 440.105 or s. 440.106, relating to workers'
- 423           compensation.
- 424           7. Section 443.071(4), relating to creation of a
- 425           fictitious employer scheme to commit unemployment compensation
- 426           fraud.
- 427           8. Section 465.0161, relating to distribution of medicinal
- 428           drugs without a permit as an Internet pharmacy.
- 429           9. Section 499.0051, relating to crimes involving
- 430           contraband and adulterated drugs.
- 431           10. Part IV of chapter 501, relating to telemarketing.
- 432           11. Chapter 517, relating to sale of securities and
- 433           investor protection.
- 434           12. Section 550.235 or s. 550.3551, relating to dogracing
- 435           and horseracing.
- 436           13. Chapter 550, relating to jai alai frontons.
- 437           14. Section 551.109, relating to slot machine gaming.
- 438           15. Chapter 552, relating to the manufacture,
- 439           distribution, and use of explosives.
- 440           16. Chapter 560, relating to money transmitters, if the
- 441           violation is punishable as a felony.
- 442           17. Chapter 562, relating to beverage law enforcement.
- 443           18. Section 624.401, relating to transacting insurance
- 444           without a certificate of authority, s. 624.437(4)(c)1., relating
- 445           to operating an unauthorized multiple-employer welfare
- 446           arrangement, or s. 626.902(1)(b), relating to representing or
- 447           aiding an unauthorized insurer.
- 448           19. Section 655.50, relating to reports of currency



CS/HB 3

2012

449 transactions, when such violation is punishable as a felony.

450 20. Chapter 687, relating to interest and usurious  
451 practices.

452 21. Section 721.08, s. 721.09, or s. 721.13, relating to  
453 real estate timeshare plans.

454 22. Section 775.13(5)(b), relating to registration of  
455 persons found to have committed any offense for the purpose of  
456 benefiting, promoting, or furthering the interests of a criminal  
457 gang.

458 23. Section 777.03, relating to commission of crimes by  
459 accessories after the fact.

460 24. Chapter 782, relating to homicide.

461 25. Chapter 784, relating to assault and battery.

462 26. Chapter 787, relating to kidnapping or human  
463 trafficking.

464 27. Chapter 790, relating to weapons and firearms.

465 28. Chapter 794, relating to sexual battery, but only if  
466 such crime was committed with the intent to benefit, promote, or  
467 further the interests of a criminal gang, or for the purpose of  
468 increasing a criminal gang member's own standing or position  
469 within a criminal gang.

470 29. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.  
471 796.05, or s. 796.07, relating to prostitution and sex  
472 trafficking.

473 30. Chapter 806, relating to arson and criminal mischief.

474 31. Chapter 810, relating to burglary and trespass.

475 32. Chapter 812, relating to theft, robbery, and related  
476 crimes.

- 477 |           33. Chapter 815, relating to computer-related crimes.
- 478 |           34. Chapter 817, relating to fraudulent practices, false
- 479 | pretenses, fraud generally, and credit card crimes.
- 480 |           35. Chapter 825, relating to abuse, neglect, or
- 481 | exploitation of an elderly person or disabled adult.
- 482 |           36. Section 827.071, relating to commercial sexual
- 483 | exploitation of children.
- 484 |           37. Chapter 831, relating to forgery and counterfeiting.
- 485 |           38. Chapter 832, relating to issuance of worthless checks
- 486 | and drafts.
- 487 |           39. Section 836.05, relating to extortion.
- 488 |           40. Chapter 837, relating to perjury.
- 489 |           41. Chapter 838, relating to bribery and misuse of public
- 490 | office.
- 491 |           42. Chapter 843, relating to obstruction of justice.
- 492 |           43. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
- 493 | s. 847.07, relating to obscene literature and profanity.
- 494 |           44. Chapter 849 ~~Section 849.09, s. 849.14, s. 849.15, s.~~
- 495 | ~~849.23, or s. 849.25,~~ relating to gambling.
- 496 |           45. Chapter 874, relating to criminal gangs.
- 497 |           46. Chapter 893, relating to drug abuse prevention and
- 498 | control.
- 499 |           47. Chapter 896, relating to offenses related to financial
- 500 | transactions.
- 501 |           48. Sections 914.22 and 914.23, relating to tampering with
- 502 | or harassing a witness, victim, or informant, and retaliation
- 503 | against a witness, victim, or informant.
- 504 |           49. Sections 918.12 and 918.13, relating to tampering with

505 jurors and evidence.

506 Section 7. Nothing in this act may be construed to  
 507 authorize the possession or operation of any machine or device  
 508 that is prohibited under any other provision of law.

509 Section 8. Subsection (2) of section 721.111, Florida  
 510 Statutes, is amended to read:

511 721.111 Prize and gift promotional offers.—

512 (2) A game promotion, such as a contest of chance, gift  
 513 enterprise, or sweepstakes, in which the elements of chance and  
 514 prize are present may not be used in connection with the  
 515 offering or sale of timeshare interests, except for drawings, as  
 516 that term is defined in s. 849.0935(1)(a), in which no more than  
 517 26 prizes are promoted and in which all promoted prizes are  
 518 actually awarded. All such drawings must meet all requirements  
 519 of this chapter and of ss. 849.092 and 849.094(1), (4) ~~(2)~~, and  
 520 (9) ~~(7)~~.

521 Section 9. For the purpose of incorporating the amendment  
 522 made by this act to section 895.02, Florida Statutes, in a  
 523 reference thereto, paragraph (a) of subsection (1) of section  
 524 16.56, Florida Statutes, is reenacted to read:

525 16.56 Office of Statewide Prosecution.—

526 (1) There is created in the Department of Legal Affairs an  
 527 Office of Statewide Prosecution. The office shall be a separate  
 528 "budget entity" as that term is defined in chapter 216. The  
 529 office may:

530 (a) Investigate and prosecute the offenses of:

531 1. Bribery, burglary, criminal usury, extortion, gambling,  
 532 kidnapping, larceny, murder, prostitution, perjury, robbery,

533 carjacking, and home-invasion robbery;

534 2. Any crime involving narcotic or other dangerous drugs;

535 3. Any violation of the provisions of the Florida RICO

536 (Racketeer Influenced and Corrupt Organization) Act, including

537 any offense listed in the definition of racketeering activity in

538 s. 895.02(1)(a), providing such listed offense is investigated

539 in connection with a violation of s. 895.03 and is charged in a

540 separate count of an information or indictment containing a

541 count charging a violation of s. 895.03, the prosecution of

542 which listed offense may continue independently if the

543 prosecution of the violation of s. 895.03 is terminated for any

544 reason;

545 4. Any violation of the provisions of the Florida Anti-

546 Fencing Act;

547 5. Any violation of the provisions of the Florida

548 Antitrust Act of 1980, as amended;

549 6. Any crime involving, or resulting in, fraud or deceit

550 upon any person;

551 7. Any violation of s. 847.0135, relating to computer

552 pornography and child exploitation prevention, or any offense

553 related to a violation of s. 847.0135 or any violation of

554 chapter 827 where the crime is facilitated by or connected to

555 the use of the Internet or any device capable of electronic data

556 storage or transmission;

557 8. Any violation of the provisions of chapter 815;

558 9. Any criminal violation of part I of chapter 499;

559 10. Any violation of the provisions of the Florida Motor

560 Fuel Tax Relief Act of 2004;

CS/HB 3

2012

- 561           11. Any criminal violation of s. 409.920 or s. 409.9201;  
 562           12. Any crime involving voter registration, voting, or  
 563 candidate or issue petition activities;  
 564           13. Any criminal violation of the Florida Money Laundering  
 565 Act; or  
 566           14. Any criminal violation of the Florida Securities and  
 567 Investor Protection Act; or any attempt, solicitation, or  
 568 conspiracy to commit any of the crimes specifically enumerated  
 569 above. The office shall have such power only when any such  
 570 offense is occurring, or has occurred, in two or more judicial  
 571 circuits as part of a related transaction, or when any such  
 572 offense is connected with an organized criminal conspiracy  
 573 affecting two or more judicial circuits. Informations or  
 574 indictments charging such offenses shall contain general  
 575 allegations stating the judicial circuits and counties in which  
 576 crimes are alleged to have occurred or the judicial circuits and  
 577 counties in which crimes affecting such circuits or counties are  
 578 alleged to have been connected with an organized criminal  
 579 conspiracy.

580           Section 10. For the purpose of incorporating the amendment  
 581 made by this act to section 849.16, Florida Statutes, in a  
 582 reference thereto, subsection (1) of section 338.234, Florida  
 583 Statutes, is reenacted to read:

584           338.234 Granting concessions or selling along the turnpike  
 585 system; immunity from taxation.—

586           (1) The department may enter into contracts or licenses  
 587 with any person for the sale of services or products or business  
 588 opportunities on the turnpike system, or the turnpike enterprise

CS/HB 3

2012

589 | may sell services, products, or business opportunities on the  
590 | turnpike system, which benefit the traveling public or provide  
591 | additional revenue to the turnpike system. Services, business  
592 | opportunities, and products authorized to be sold include, but  
593 | are not limited to, motor fuel, vehicle towing, and vehicle  
594 | maintenance services; food with attendant nonalcoholic  
595 | beverages; lodging, meeting rooms, and other business services  
596 | opportunities; advertising and other promotional opportunities,  
597 | which advertising and promotions must be consistent with the  
598 | dignity and integrity of the state; state lottery tickets sold  
599 | by authorized retailers; games and amusements that operate by  
600 | the application of skill, not including games of chance as  
601 | defined in s. 849.16 or other illegal gambling games; Florida  
602 | citrus, goods promoting the state, or handmade goods produced  
603 | within the state; and travel information, tickets, reservations,  
604 | or other related services. However, the department, pursuant to  
605 | the grants of authority to the turnpike enterprise under this  
606 | section, shall not exercise the power of eminent domain solely  
607 | for the purpose of acquiring real property in order to provide  
608 | business services or opportunities, such as lodging and meeting-  
609 | room space on the turnpike system.

610 |       Section 11. For the purpose of incorporating the amendment  
611 | made by this act to section 895.02, Florida Statutes, in a  
612 | reference thereto, paragraph (g) of subsection (3) of section  
613 | 655.50, Florida Statutes, is reenacted to read:

614 |       655.50 Florida Control of Money Laundering in Financial  
615 | Institutions Act; reports of transactions involving currency or  
616 | monetary instruments; when required; purpose; definitions;

617 penalties.—

618 (3) As used in this section, the term:

619 (g) "Specified unlawful activity" means any "racketeering  
620 activity" as defined in s. 895.02.

621 Section 12. For the purpose of incorporating the amendment  
622 made by this act to section 849.16, Florida Statutes, in a  
623 reference thereto, section 849.19, Florida Statutes, is  
624 reenacted to read:

625 849.19 Property rights in confiscated machine.—The right  
626 of property in and to any machine, apparatus or device as  
627 defined in s. 849.16 and to all money and other things of value  
628 therein, is declared not to exist in any person, and the same  
629 shall be forfeited and such money or other things of value shall  
630 be forfeited to the county in which the seizure was made and  
631 shall be delivered forthwith to the clerk of the circuit court  
632 and shall by her or him be placed in the fine and forfeiture  
633 fund of said county.

634 Section 13. For the purpose of incorporating the amendment  
635 made by this act to section 895.02, Florida Statutes, in a  
636 reference thereto, paragraph (g) of subsection (2) of section  
637 896.101, Florida Statutes, is reenacted to read:

638 896.101 Florida Money Laundering Act; definitions;  
639 penalties; injunctions; seizure warrants; immunity.—

640 (2) As used in this section, the term:

641 (g) "Specified unlawful activity" means any "racketeering  
642 activity" as defined in s. 895.02.

643 Section 14. For the purpose of incorporating the amendment  
644 made by this act to section 895.02, Florida Statutes, in a

CS/HB 3

2012

645 reference thereto, subsection (3) of section 905.34, Florida  
646 Statutes, is reenacted to read:

647 905.34 Powers and duties; law applicable.—The jurisdiction  
648 of a statewide grand jury impaneled under this chapter shall  
649 extend throughout the state. The subject matter jurisdiction of  
650 the statewide grand jury shall be limited to the offenses of:

651 (3) Any violation of the provisions of the Florida RICO  
652 (Racketeer Influenced and Corrupt Organization) Act, including  
653 any offense listed in the definition of racketeering activity in  
654 s. 895.02(1)(a), providing such listed offense is investigated  
655 in connection with a violation of s. 895.03 and is charged in a  
656 separate count of an information or indictment containing a  
657 count charging a violation of s. 895.03, the prosecution of  
658 which listed offense may continue independently if the  
659 prosecution of the violation of s. 895.03 is terminated for any  
660 reason; or any attempt, solicitation, or conspiracy to commit  
661 any violation of the crimes specifically enumerated above, when  
662 any such offense is occurring, or has occurred, in two or more  
663 judicial circuits as part of a related transaction or when any  
664 such offense is connected with an organized criminal conspiracy  
665 affecting two or more judicial circuits. The statewide grand  
666 jury may return indictments and presentments irrespective of the  
667 county or judicial circuit where the offense is committed or  
668 triable. If an indictment is returned, it shall be certified and  
669 transferred for trial to the county where the offense was  
670 committed. The powers and duties of, and law applicable to,  
671 county grand juries shall apply to a statewide grand jury except  
672 when such powers, duties, and law are inconsistent with the



CS/HB 3

2012

673 | provisions of ss. 905.31-905.40.

674 |         Section 15. This act shall take effect upon becoming a

675 | law.