

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Trujillo offered the following:

**Amendment (with title amendment)**

Remove lines 105-331 and insert:  
applicable provisions of chapter 496 and this section.

(4) It is unlawful for any organization that ~~which~~,  
pursuant to the authority granted by this section, promotes,  
operates, or conducts a drawing by chance:

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

(b) To require an entry fee, donation, substantial  
consideration, payment, proof of purchase, or contribution as a  
condition of entering the drawing or of being selected to win a  
prize. However, this paragraph does ~~provision shall~~ not prohibit

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17 an organization from suggesting a minimum donation or from  
18 including a statement of such suggested minimum donation on any  
19 printed material used ~~utilized~~ in connection with the  
20 fundraising event or drawing;

21 (c) To condition the drawing on a minimum number of  
22 tickets having been disbursed to contributors or on a minimum  
23 amount of contributions having been received;

24 (d) To arbitrarily remove, disqualify, disallow, or reject  
25 any entry or to discriminate in any manner between entrants who  
26 gave contributions to the organization and those who did not  
27 give such contributions;

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

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

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

35 (h) To cancel a drawing; or

36 (i) To condition the acquisition or giveaway of any prize  
37 upon the receipt of voluntary donations or contributions.

38 (7) Any organization that ~~which~~ engages in any act or  
39 practice in violation of this section commits ~~is guilty of~~ a  
40 misdemeanor of the second degree, punishable as provided in s.  
41 775.082 or s. 775.083. ~~However,~~ Any organization or other person  
42 who sells or offers for sale in this state a ticket or entry  
43 blank for a raffle or other drawing by chance, without complying  
44 with the requirements of paragraph (3) (d), commits ~~is guilty of~~

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45 a misdemeanor of the second degree, punishable by fine only as  
46 provided in s. 775.083.

47 Section 3. Subsections (1) and (8) of section 849.094,  
48 Florida Statutes, are amended, and subsection (11) is added to  
49 that section, to read:

50 849.094 Game promotion in connection with sale of consumer  
51 products or services.—

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

53 (a) "Game promotion" means, but is not limited to, a  
54 contest, game of chance, sweepstakes, or gift enterprise,  
55 conducted by an operator within or throughout the state and  
56 other states in connection with and incidental to the sale of  
57 consumer products or services, and in which the elements of  
58 chance and prize are present. However, "game promotion" may  
59 ~~shall~~ not be construed to apply to bingo games conducted  
60 pursuant to s. 849.0931.

61 (b) "Operator" means a retailer who operates a game  
62 promotion or any person, firm, employee thereof who promotes,  
63 operates, or conducts a nationally advertised corporation,  
64 organization, or association or agent or game promotion, ~~except~~  
65 ~~any charitable nonprofit organization.~~

66 (8) (a) The department may adopt ~~of Agriculture and~~  
67 ~~Consumer Services shall have the power to promulgate~~ such rules  
68 and regulations respecting the operation of game promotions as  
69 it deems ~~may deem~~ advisable.

70 (b) Compliance with the rules of the department does not  
71 authorize and is not a defense to a charge of possession of a

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72 slot machine or device or any other device or a violation of any  
73 other law.

74 (c)-(b) Whenever the department ~~of Agriculture and Consumer~~  
75 ~~Services~~ or the Department of Legal Affairs has reason to  
76 believe that a game promotion is being operated in violation of  
77 this section, it may bring an action in the circuit court of any  
78 judicial circuit in which the game promotion is being operated  
79 in the name and on behalf of the people of the state against any  
80 operator thereof to enjoin the continued operation of such game  
81 promotion anywhere within the state.

82 (11) A violation of this section, or soliciting another to  
83 commit an act that violates this section, constitutes a  
84 deceptive and unfair trade practice actionable under the Florida  
85 Deceptive and Unfair Trade Practices Act.

86  
87 Remove lines 580-591

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90 **T I T L E A M E N D M E N T**

91 Remove lines 13-23 and insert:  
92 revising definitions; providing that violations are deceptive  
93 and unfair trade practices; amending s. 849.16, F.S.;