

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 629 Lottery Games  
**SPONSOR(S):** Gaming Control Subcommittee, Robinson  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1264

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Gaming Control Subcommittee	10 Y, 1 N, As CS	Pirrello	Barry
2) Government Operations & Technology Appropriations Subcommittee	11 Y, 0 N	Helpling	Topp
3) Commerce Committee			

### SUMMARY ANALYSIS

Gambling is generally prohibited and illegal in Florida. However, in 1986, Florida voters adopted a constitutional amendment authorizing the creation of the Florida Lottery. Since that time, the Florida Lottery has grown into one of the largest state-run lotteries in the country, with annual sales exceeding \$6 billion. Lottery tickets can be purchased at over 13,000 retail locations throughout Florida.

Current law does not require the Lottery to inform customers who purchase lottery tickets of the risks associated with gambling, including the potential for compulsive or addictive behavior. However, the Florida Lottery encourages customers to “Play Responsibly” and widely advertises a toll-free phone number for a referral service to assist people with gambling problems.

The bill amends current law by directing the Florida Lottery to contractually require vendors to place the following warning prominently on the front of all lottery tickets: “WARNING: PLAYING A LOTTERY GAME CONSTITUTES GAMBLING AND MAY LEAD TO ADDICTION AND/OR COMPULSIVE BEHAVIOR. THE CHANCES OF WINNING A BIG PRIZE ARE VERY LOW.” The bill requires the Florida Lottery to provide the same disclosure in all advertisements or promotions of lottery games, including those on television, the Internet, print, and the radio.

The bill also expressly prohibits the use of personal electronic devices for the purpose of purchasing, playing, storing, redeeming or selling lottery tickets or games. While current law appears to contemplate only paper-based lottery tickets, the bill would amend the law to explicitly prohibit lottery tickets or games in electronic form. Violations of this section are punishable as a second degree misdemeanor.

The bill will have a significant fiscal impact on Lottery transfers to the Educational Enhancement Trust Fund. See *Fiscal Comments*.

The bill provides for an effective date of July 1, 2019.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **General Overview of Lottery in Florida**

In general, gambling is illegal in Florida.<sup>1</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>2</sup> running a lottery,<sup>3</sup> or the manufacture, sale, lease, play, or possession of slot machines.<sup>4</sup> Certain exceptions have been authorized, with restrictions on permitted locations, operators, and prizes, including penny-ante games,<sup>5</sup> bingo,<sup>6</sup> cardrooms,<sup>7</sup> charitable drawings,<sup>8</sup> game promotions (sweepstakes),<sup>9</sup> and bowling tournaments.<sup>10</sup> In addition, Chapters 550 and 551, F.S., respectively, authorize pari-mutuel wagering on certain live events at licensed facilities and slot machine gaming at specified locations.

Section 7 of Article X of the Florida Constitution provides, "Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state."<sup>11</sup>

In 1986, Florida voters approved an amendment to the Florida Constitution to allow the state to operate a lottery. Section 15 of Article X of the Florida Constitution, provides as follows:

Lotteries may be operated by the state.... On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery pursuant to the constitutional authorization set forth above. Section 24.102, F.S., creates the Department of the Lottery (Lottery) and states the Legislature's intent that it be self-supporting, revenue-producing, and function as an entrepreneurial business enterprise. Florida began offering lottery games in 1988, with a \$1 weekly drawing.<sup>12</sup> Since then, the Lottery has grown to include approximately 60 different scratch-off games available at over 13,000 retailer locations, with Lottery ticket prices ranging from \$1 to \$30.<sup>13</sup> This growth resulted in more than \$6.7 billion in total sales for the 2017-2018 fiscal year.

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<sup>1</sup> S. 849.08, F.S.

<sup>2</sup> S. 849.01, F.S.

<sup>3</sup> S. 849.09, F.S.

<sup>4</sup> S. 849.16, F.S.

<sup>5</sup> S. 849.085, F.S.

<sup>6</sup> S. 849.0931, F.S.

<sup>7</sup> S. 849.086, F.S.

<sup>8</sup> S. 849.0935, F.S.

<sup>9</sup> S. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>10</sup> S. 546.10, F.S.

<sup>11</sup> The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution (Nov. 5, 1968) include horseracing, greyhound racing and jai alai games.

<sup>12</sup> Fla. Lottery, *History*, <http://www.flalottery.com/history> (last visited Feb. 5, 2019).

<sup>13</sup> *Id.*; Fla. Lottery, *Scratch Offs*, <http://www.flalottery.com/scratch-offs?amount=30> (last visited Feb. 6, 2019).

## Lottery Warning and Problem Gambling

Currently, there is no statutory provision requiring the Lottery to inform customers who purchase lottery tickets of the risks associated with gambling, including the potential for compulsive or addictive gambling. However, the Lottery's website includes a "Play Responsibly" page, which states:

Florida Lottery games are designed to be a fun, low-cost form of entertainment with the added benefit of helping to support education. While most of our players enjoy the fun and entertainment of playing our games, for some, gambling of any kind can be a problem.

If someone you know has a gambling problem, help is available by calling a toll-free referral service at:

888-ADMIT IT (888-236-4848)<sup>14</sup>

The Play Responsibly page also lists phone numbers and a link where one may call, text, or chat with someone at the National Problem Gambling Helpline as well as a link to Gamblers Anonymous.<sup>15</sup> Phone numbers for the Florida Council on Compulsive Gambling, National Problem Gambling Helpline, and Gamblers Anonymous can also be found in "Play Responsibly" pamphlets, located next to tickets in most retailers.<sup>16</sup>

In addition, the following statement is found on the back of certain lottery products: "Play Responsibly – If you or someone you know has a gambling problem, call 1-888-ADMIT-IT."<sup>17</sup>

Addiction is characterized by the "inability to consistently abstain, impairment in behavioral control, craving, diminished recognition of significant problems with one's behaviors and interpersonal relationships, and a dysfunctional emotional response."<sup>18</sup> Opponents of gambling contend that participants in gambling are particularly susceptible to addiction.<sup>19</sup> Gambling studies indicate that games of chance present the illusion of quick and effortless financial gain yet can often lead to financial loss due to the statistical improbability of winning a prize.<sup>20</sup> Researchers describe a cycle in which the gambler believes she can win back her losses, with the cycle continuing until she is forced to seek rehabilitation to break her habit.<sup>21</sup>

## Personal Electronic Devices

The percentage of Americans who own a cellphone has increased significantly, from 62% in 2002 to 95% in 2018.<sup>22</sup> Smartphone ownership has also increased dramatically from 35% in 2011 to 77% in 2018.<sup>23</sup> Tablet computers were introduced in 2010 and as of January 2018, more than half of Americans own one.<sup>24</sup> By contrast, American ownership of desktop and laptop computers has remained unchanged in the last 10 years, with nearly 3 in 4 adults owning one.<sup>25</sup>

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<sup>14</sup> Fla. Lottery, *Where to Play*, <http://www.flalottery.com/whereToPlay> (last visited Feb. 8, 2019).

<sup>15</sup> Fla. Lottery, *Play Responsibly*, <http://www.flalottery.com/playResponsibly> (last visited Feb. 5, 2019).

<sup>16</sup> Document on file with the Gaming Control Subcommittee.

<sup>17</sup> Document on file with the Gaming Control Subcommittee.

<sup>18</sup> Am. Soc'y of Addiction Med., *Quality and Practice*, <http://www.asam.org/quality-practice/definition-of-addiction> (last visited Feb. 5, 2019).

<sup>19</sup> See Psychguides.com, *Compulsive Gambling Symptoms, Causes and Effects*, <http://www.psychguides.com/guides/compulsive-gambling-symptoms-causes-and-effects/> (last visited Feb. 5, 2019).

<sup>20</sup> *Id.*

<sup>21</sup> See Natasha Dow Schüll, *Addiction by Design: Machine Gambling in Las Vegas*, 225 (2012).

<sup>22</sup> Pew Research Center; *Mobile Fact Sheet*, <http://www.pewinternet.org/fact-sheet/mobile/> (last visited Feb. 6, 2019).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

Currently, there is no statutory provision related to the use of such devices in relation to lottery tickets or games. However, given the wording of several statutes and their enactment prior to the advent and proliferation of smartphones, the Lottery's authorizing statutes appear to contemplate the authorization of lottery games in paper form only.<sup>26</sup>

### **Effect of Proposed Changes**

The bill prohibits the use of personal electronic devices<sup>27</sup> to play, store, or redeem a lottery ticket or game or representation thereof. The bill prohibits the use or solicitation of the use of a personal electronic device in order to sell or purchase a lottery ticket or game or representation thereof, unless it is used exclusively to render payment for the ticket or game while on the premises of an authorized retailer. A violation of this section is punishable by a definite term of imprisonment not to exceed 60 days or a fine of no more than \$500.

The bill requires that beginning January 1, 2020, all advertisements or promotions of lottery games include the following statement: "WARNING: PLAYING A LOTTERY GAME CONSTITUTES GAMBLING AND MAY LEAD TO ADDICTION AND/OR COMPULSIVE BEHAVIOR. THE CHANCES OF WINNING A BIG PRIZE ARE VERY LOW." If the advertisement is shown on television, the internet or another electronic medium it must appear in black font on a white background and occupy at least 10 percent of the surface area of the advertisement or promotion. If the advertisement is in print, including a newspaper, magazine or billboard, the statement must appear in prominent text and occupy at least 10 percent of the surface area of the advertisement or promotion. If the advertisement is on the radio, the statement must be audibly announced at the conclusion of the advertisement or promotion.

The bill requires that beginning January 1, 2020, all contracts for the printing of lottery tickets specify that tickets printed on or after January 1, 2021, must include the following warning: "WARNING: PLAYING A LOTTERY GAME CONSTITUTES GAMBLING AND MAY LEAD TO ADDICTION AND/OR COMPULSIVE BEHAVIOR. THE CHANCES OF WINNING A BIG PRIZE ARE VERY LOW." The statement must appear in prominent text on the front of each ticket and occupy at least 10 percent of the total face of the lottery ticket.

#### **B. SECTION DIRECTORY:**

**Section 1:** Creates s. 24.1056, F.S., to prohibit the use of personal electronic devices in lottery games.

**Section 2:** Amends s. 24.107, F.S., to require that all advertisements or promotions of lottery games include the statement: "WARNING: PLAYING A LOTTERY GAME CONSTITUTES GAMBLING AND MAY LEAD TO ADDICTION AND/OR COMPULSIVE BEHAVIOR. THE CHANCES OF WINNING A BIG PRIZE ARE VERY LOW."

**Section 3:** Amends s. 24.111, F.S., to require that all contracts for the printing of lottery tickets specify that all lottery tickets must include a warning that reads: "WARNING: PLAYING A LOTTERY GAME CONSTITUTES GAMBLING AND MAY LEAD TO ADDICTION AND/OR COMPULSIVE BEHAVIOR. THE CHANCES OF WINNING A BIG PRIZE ARE VERY LOW."

**Section 4:** Provides an effective date.

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<sup>26</sup> S. 24.112(13), F.S.; S. 24.105(6), F.S.; S. 24.108(2), F.S. (1987).

<sup>27</sup> The bill defines "personal electronic device" as a cellular telephone, smart phone, smart watch, tablet, laptop computer, desktop computer, or any other electronic device capable of connecting to the Internet or any other communications network or data system, but does not include a device operated solely by the department, a retailer, or a vendor, or a vending machine authorized pursuant to s. 24.112(15).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See *fiscal comments*.

2. Expenditures:

See *fiscal comments*.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

On March 8, 2019, the Revenue Estimating Conference reviewed the bill and estimated that it will result in a reduction in Lottery sales and transfers to the Educational Enhancement Trust Fund (EETF). However, the House outlook (budget plan) contemplates any reduction to the EETF will be replaced with general revenue. The estimated transfer reductions over the next three fiscal years are \$31.6 million for Fiscal Year 2019-20, \$64.4 million for Fiscal Year 2020-21, and \$65.2 million for Fiscal Year 2021-22.<sup>28</sup> The following chart shows the impact to the EETF.

	EETF REC Transfers February, 2020 (in billions)	Adjusted Transfer to EETF (in billions)	Impact to EETF (in millions)
2019-20 <sup>29</sup>	1,807.1	1,775.1	(31.6)
2020-21	1,839.2	1,774.8	(64.4)
2021-22	1,864.2	1,799.0	(65.2)

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

<sup>28</sup> Office of Economic & Demographic Research, *Revenue Estimating Conference, Impact Conference – 3/08/19*, [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/\\_pdf/Impact0308.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/_pdf/Impact0308.pdf) (last visited Mar. 25, 2019).

<sup>29</sup> The bill's effect date is January, 2020. The impact for Fiscal Year 2019-20 is the total fiscal year impact divided by two.

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 20, 2019, the Gaming Control Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute makes the following changes to the bill:

- Clarifies the definition of “personal electronic device” by specifying that electronic devices operated by the Department of the Lottery, a Lottery retailer, or a Lottery vendor are not subject to the prohibition set forth in the bill.

The staff analysis has been updated to reflect the committee substitute.