

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 Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1404

INTRODUCER: Regulated Industries Committee and Senator Simon

SUBJECT: Gambling

DATE: April 14, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baird</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Betta</u>	<u>AEG</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1404 makes the following changes relating to gambling:

- Amends the requirements for appointing members of the Florida Gaming Control Commission (commission).
- Amends the prohibitions on employment for certain employees and commissioners of the commission to not allow a former employee or commissioner to be an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.
- Amends the types of employment positions that are ineligible for employment with the commission within the two years immediately preceding such employment, to include any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.
- Prohibits a former employee or commissioner from being an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.
- Prohibits a former employee's or commissioner's relative living in the same household, from being an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.

- Prohibits the executive director, or an employee of the commission, for the two years immediately following the date of resignation or termination from the commission from being an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.
- Creates a procedure that would allow any veterans' service organization granted a federal charter under Title 36, U.S.C., or a division, a department, a post, or a chapter of such organization, for which an alcoholic beverage license has been issued that is in doubt about whether a machine meets the definition of an amusement machine under s. 546.10, F.S., to petition the commission for a declaratory statement under s. 120.565, F.S., on whether the operation of the game or machine would be authorized under this section or ch. 489, F.S.
- Provides that a game or machine awaiting a declaratory statement from the commission may not be purchased or installed until the declaratory statement is issued.
- Creates a procedure that would allow the veterans' organization that is in doubt about the legality of a game or machine, currently on the premises, to petition the commission for a declaratory statement pursuant to s. 120.565, F.S., on whether the operation of the game or machine would be authorized under s. 546.10, F.S., or ch. 849, F.S. If the game, machine, premises, or organization is the subject of an ongoing criminal investigation, the organization may not petition the commission for a declaratory statement under this subsection.
- Provides that the commission shall issue a declaratory statement within 60 days after receiving a petition. The commission may not deny a petition.
- Provides that petitions made under this subsection must provide enough information for the commission to issue the declaratory statement and must be accompanied by the exact specifications for the type of game or machine that the organization will purchase or install or currently has on the premises. The declaratory statement is valid only for the game or machine for which it is requested and is invalid if the specifications for the game or machine have changed.
- Provides the declaratory statement is binding on the commission and can be introduced in any subsequent proceedings as evidence of a good faith effort to comply with s. 546.10, F.S., or ch. 849, F.S.
- Does not prevent the commission or any other criminal justice agency from detecting, apprehending, and arresting a person for any alleged crimes of this state.
- Does not require an owner or operator to request a declaratory statement in order to operate pursuant to this section.
- Replaces a requirement for slot machine licensees with a requirement that slot machine licensees create a written policy for ensuring opportunities for construction services from economically disadvantaged businesses.
- Prohibits wagering on any professional or amateur game knowing that the results are prearranged or have been predetermined.
- Prohibits the false impersonation of commission personnel or representatives and provides a criminal penalty.
- Increases criminal penalties for keeping an illegal gambling house.
- Increases criminal penalties for agents or employees of a gambling house.
- Increases criminal penalties for renting a house for gambling purposes.
- Prohibits a person from tampering with or manipulating the playing cards, outcome, or payoff of a card game in a licensed cardroom.

- Provides definitions and increases criminal penalties for specified violations involving a slot machine or device.
- Defines “Internet gambling,” and provide criminal penalties.
- Defines “Internet sports wagering,” and provides criminal penalties.
- Provides a higher criminal penalty for subsequent offenses in connection with lotteries.
- Creates new regulations regarding fantasy sports contests, including what constitutes a fantasy sports contest. The amendment creates definitions for the following terms: Confidential information; Contest operator; Contest participant; Entry fee; Fantasy sports contest; Noncommercial contest operator.
- Provides that the commission shall investigate violations of this section and refer them to the Attorney general or the state attorney.
- Provides civil and criminal penalties for violations of this section.
- Provides criminal penalties for persons in charge of slot machine locations.
- Prohibits trafficking in slot machines or devices and provides a criminal penalty.
- Requires the imposition of a specified fine for an offender convicted of trafficking in a specified number of slot machines and provide for the deposit of fines and use of proceeds.
- Prohibits a person from making false statements or disseminating false information regarding the legality of a slot machine or device to facilitate the sale or delivery and provides criminal penalties.
- Repeals a statute imposing criminal penalties for certain violations.
- Prohibits the transport or procurement of the transport of a specified number of persons to facilitate illegal gambling, defines the term “illegal gambling” and provides criminal penalties.
- Prohibits the making or disseminating of specified advertisements to promote or facilitate illegal gambling, prohibits activities for the creation of specified advertisements, defines the term “illegal gambling”, and provides a criminal penalty and provides exceptions.
- Preempts enactment or enforcement of local ordinances on activities under s. 546.10 and ch. 849, F.S.
- Requires a court to consider the amount of currency seized that is connected to specified violations relating to illegal gambling when determining bail.
- Ranks offenses created by the act on the offense severity ranking chart of the Criminal Punishment Code.
- Changes the rank of certain specified offenses on the offense severity ranking chart.

The bill has an indeterminate fiscal impact to the state. See Section V., Fiscal Impact Statement.

The bill takes effect October 1, 2025.

II. Present Situation:

Background

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ However, the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel⁵ wagering at licensed greyhound and horse tracks and jai alai frontons;⁶
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁷
- Cardrooms⁸ at certain pari-mutuel facilities;⁹
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;¹⁰
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S., the Family Amusement Games Act;¹¹ and
- The following activities, if conducted as authorized under ch. 849, F.S., relating to Gambling, under specific and limited conditions:
 - Penny-ante games;¹²
 - Bingo;¹³
 - Charitable drawings;¹⁴
 - Game promotions (sweepstakes);¹⁵ and
 - Bowling tournaments.¹⁶

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.¹⁷

¹ See s. 849.08, F.S.

² See s. 849.01, F.S.

³ See s. 849.09, F.S.

⁴ See s. 849.16, F.S.

⁵ Section 550.002(22), F.S., defines “pari-mutuel” as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.

⁶ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

⁷ See FLA. CONST., art. X, s. 23, and ch. 551, F.S.

⁸ Section 849.086(2)(c), F.S., defines “cardroom” to mean “a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility.”

⁹ See Florida Gaming Control Commission, *Annual Report Fiscal Year 2023-2024* (Annual Report), at p. 19, at <https://flgaming.gov/pmw/annual-reports/docs/2023-2024-FGCC-Annual-Report.pdf> (last visited March 30, 2025), which states that of 30 licensed permitholders, 29 operated at a pari-mutuel facility.

¹⁰ Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

¹¹ See s. 546.10, F.S.

¹² See s. 849.085, F.S.

¹³ See s. 849.0931, F.S.

¹⁴ See s. 849.0935, F.S.

¹⁵ Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁶ See s. 849.141, F.S.

¹⁷ Section 550.1625(1), F.S., “...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state.” See also, *Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d

The 1968 State Constitution states that “[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .” are prohibited.¹⁸ A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.¹⁹

Enforcement of Gaming Laws and Florida Gaming Control Commission

In 2021, the Legislature updated Florida law for authorized gaming in the state, and for enforcement of the gambling laws and other laws relating to authorized gaming.²⁰ The Office of Statewide Prosecution in the Department of Legal Affairs is authorized to investigate and prosecute, in addition to gambling offenses, any violation of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), which are referred to the Office of Statewide Prosecution by the Florida Gaming Control Commission (commission).²¹

In addition to the enhanced authority of the Office of Statewide Prosecution, the commission was created²² within the Department of Legal Affairs. The commission has two divisions, the Division of Gaming Enforcement (DGE), and the Division of Pari-mutuel Wagering (DPMW) which was transferred from the Department of Business and Professional Regulation (DBPR) effective July 1, 2022, (as discussed below).

The commission must do all of the following:²³

- Exercise all of the regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the Federal Indian Gaming Regulatory Act, and any other forms of gambling authorized by the State Constitution or law, excluding state lottery games as authorized by the State Constitution.
- Establish procedures consistent with ch. 120, F.S., the Administrative Procedure Act, to ensure adequate due process in the exercise of the commission’s regulatory and executive functions.

DCA 1981), *review denied*, 412 So.2d 470, which states “Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right,” citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936).

¹⁸ The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

¹⁹ The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

²⁰ See ch. 2021-268, Laws of Fla., (Implementation of 2021 Gaming Compact between the Seminole Tribe of Florida and the State of Florida); ch. 2021-269, Laws of Fla., (Gaming Enforcement), ch. 2021-270, Laws of Fla., (Public Records and Public Meetings), and 2021-271, Laws of Fla., (Gaming), as amended by ch. 2022-179, Laws of Fla., (Florida Gaming Control Commission). Conforming amendments are made to the section in ch. 2022-7, Laws of Fla., (Reviser’s Bill) and ch. 2023-8, Laws of Fla., (Reviser’s Bill).

²¹ Section 16.56(1)(a), F.S.

²² Section 16.71, F.S.

²³ Section 16.712, F.S. The commission also administers the Pari-mutuel Wagering Trust Fund. See s. 16.71(6), F.S.

- Ensure that the laws of this state are not interpreted in any manner that expands the activities authorized in ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling).
- Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribe Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit underage persons from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.
- Evaluate, as the state compliance agency or as the commission, information that is reported by sports governing bodies or other parties to the commission relating to:
 - Any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events;
 - Any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing; suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and
 - The use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission.
- Provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of non-proprietary information that may warrant further investigation of nonproprietary information by such entities to ensure the integrity of wagering activities in the state.
- Review any matter within the scope of the jurisdiction of the DPMW.
- Review the regulation of licensees, permitholders, or persons regulated by the Division of Pari-mutuel Wagering and the procedures used by that division to implement and enforce the law.
- Review the procedures of the DPMW which are used to qualify applicants applying for a license, permit, or registration.
- Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the DBPR, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling), and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling) to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.
- Exercise all other powers and perform any other duties prescribed by the Legislature and adopt rules to implement the above.

Commissioners

As set forth in s. 16.71, F.S., of the five commissioners appointed as members of the commission, at least one member must have at least 10 years of experience in law enforcement and criminal investigations, at least one member must be a certified public accountant licensed in this state with at least 10 years of experience in accounting and auditing, and at least one member must be an attorney admitted and authorized to practice law in this state for the preceding 10 years. All members serve four-year terms but may not serve more than 12 years. As of the date of this analysis, there is one vacancy on the commission.

Division of Gaming Enforcement

Section 16.711, F.S., sets forth the duties of the DGE within the commission.²⁴ The DGE is a criminal justice agency, as defined in s. 943.045, F.S. The commissioners must appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE.²⁵

The DGE director and all investigators employed by the DGE must meet the requirements for employment and appointment provided by s. 943.13, F.S., and must be certified as law enforcement officers, as defined in s. 943.10(1), F.S. The DGE director and such investigators must be designated law enforcement officers and must have the power to detect, apprehend, and arrest for any alleged violation of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), or any rule adopted pursuant thereto, or any law of this state.²⁶

Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment, and such entry does not constitute a trespass. In any instance in which there is reason to believe that a violation has occurred, such officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring.²⁷

Further, any such officer may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation. Investigators employed by the commission also have access to, and the right to inspect, premises licensed by the commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the commission.²⁸

The DGE and its investigators are specifically authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. The term “contraband” has the same meaning as the

²⁴ For a summary of DGE highlights in Fiscal Year 2023-2024, see Florida Gaming Control Commission, *Annual Report Fiscal Year 2023-2024* (Annual Report), at p. 8, at <https://flgaming.gov/pmw/annual-reports/docs/2023-2024-FGCC-Annual-Report.pdf> (last visited March 30, 2025).

²⁵ Section 16.711(2), F.S.

²⁶ Section 16.711(3), F.S.

²⁷ *Id.*

²⁸ *Id.*

term “contraband article” in s. 932.701(2)(a)2., F.S.²⁹ The DGE is specifically authorized to store and test any contraband that is seized in accordance with the Florida Contraband Forfeiture Act and may authorize any of its staff to implement this provision. The authority of any other person authorized by law to seize contraband is not limited by these provisions.³⁰

Section 16.711(5), F.S., requires the Florida Department of Law Enforcement (FDLE) to provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the commission’s executive director and agreed to by FDLE’s executive director. Any other state agency, including the DBPR and the Department of Revenue, must, upon request, provide the commission with any information relevant to any investigation conducted as described above, and the commission must reimburse any agency for the actual cost of providing any such assistance.³¹

Division of Pari-mutuel Wagering

The commission has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties. The DPMW is charged with the regulation of Florida’s pari-mutuel, cardroom, and slot gaming industries, as authorized by ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), and ch. 849, F.S., (Gambling), as well as collecting and safeguarding associated revenues due to the state. The DPMW supports the commission in meeting the commission’s obligations as the State Compliance Agency (SCA)³² in carrying out the state’s oversight responsibilities under the provisions of the Gaming Compact between the Seminole Tribe of Florida and the State of Florida.³³

Fantasy Sports Contests

The operation of fantasy sports activities in Florida has recently received significant publicity, much like the operation of Internet cafes in recent years. Many states are now evaluating the status of fantasy gaming activities in their jurisdictions,³⁴ as there are millions of participants.³⁵

²⁹ Section 16.711(4), F.S.

³⁰ *Id.*

³¹ Section 16.711(5), F.S.

³² See s. 285.710, F.S. Until June 30, 2022, the DPMW was designated as the SCA, prior to that division’s transfer to the commission from the Department of Business and Professional Regulation, as set forth in ch. 2021-269, Laws of Fla.

³³ Section 285.710(3)(b), F.S., provides that the Gaming Compact between the Seminole Tribe of Florida and the State of Florida (2021 Gaming Compact), executed by the Governor and the Tribe on April 23, 2021, as amended on May 17, 2021, is ratified and approved. The 2021 Gaming Compact may be accessed at <https://www.flgov.com/eog/sites/default/files/press/2021%20Gaming%20Compact.pdf> (last visited March 31, 2025). The May 17, 2021, amendment states that Part XVIII.A [relating to certain negotiations within 36 months] is deleted in its entirety and replaced with “Reserved”, and that the Seminole Tribe of Florida agrees that it will not commence Sports Betting, as defined in Part III.CC, prior to October 15, 2021 (The 2021 Gaming Compact is on file with the Senate Regulated Industries Committee).

³⁴ See Marc Edelman, *A Short Treatise on Fantasy Sports and the Law: How America Regulates its New National Pastime*, Journal of Sports & Entertainment Law, Harvard Law School Vol. 3 (Jan. 2012) available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907272 (last visited March 27, 2025).

³⁵ According to the Fantasy Sports Trade Association, which states it represents the interests of 57 million fantasy sports players, fantasy sports leagues were originally referred to as “roisserie leagues” with the development of Rotisserie League

A fantasy game typically has multiple players who select and manage imaginary teams whose players are actual professional sports players. Fantasy game players compete against one another in various formats, including weekly leagues among friends and colleagues, season-long leagues, and on-line contests (daily and weekly) entered by using the Internet through personal computers or mobile telephones and other communications devices. There are various financial arrangements among players and game operators.

Florida law does not specifically address fantasy contests. Section 849.14, F.S.,³⁶ provides that a person who wagers any “thing of value” upon the result of a contest of skill or endurance of human or beast, or who receives any money wagered, or who knowingly becomes the custodian of money or other thing of value that is wagered, is guilty of a second degree misdemeanor.³⁷ Last year, the commission issued cease and desist correspondence to various companies operating fantasy contests in the state concerning possible violations of Florida’s gambling laws. The letters have generated controversy, concern, and interest from contest operators, elected officials, and the Seminole Tribe of Florida, which has entered into gaming compacts with the state (as discussed below).³⁸ The legality of various forms of fantasy sports games and contests is being reviewed and addressed in a number of states.³⁹

The State of Nevada has regulated gaming for more than 80 years, and its gaming control board was created by its legislature in 1955.⁴⁰ In 2015, the Office of the Nevada Attorney General provided the Nevada Gaming Control Board and the Nevada Gaming Commission the following informative summary about fantasy sports, player selection, and the types of simulated games being marketed to participants (referred to as owners in the Memorandum).⁴¹

Description of Fantasy Sports Games

Fantasy sports are games where the participants, as “owners,” assemble “simulated teams” with rosters and/or lineups of actual players of a professional sport. These games are generally played over the Internet using computer or mobile software applications. Fantasy sports cover a number of actual professional sports leagues, including the NFL, the MLB, the NBA, the NHL, the MLS, NASCAR, as well as college sports such as NCAA football and basketball.

Fantasy sports can be divided into two types: (1) traditional fantasy sports, which track player performance over the majority of a season, and (2) daily fantasy sports, which track player performance over a single game. The owners of these simulated teams compete against one another based on the statistical performance of actual players in actual games. The actual

Baseball in 1980, by magazine writer/editor Daniel Okrent, who met and played it with friends at a New York City restaurant La Rotisserie Francaise. See <https://thefsga.org/history/> (last visited March 27, 2025).

³⁶ See Fla. AGO 91-03 (Jan. 7, 1991) available at <https://www.myfloridalegal.com/ag-opinions/gambling-fantasy-sports-league> (last visited March 27, 2025).

³⁷ A conviction for a second degree misdemeanor may subject the violator to a definite term of imprisonment not exceeding 60 days, and a fine not exceeding \$500. See ss. 775.082 and 775.083, F.S.

³⁸ See <https://www.floridatrend.com/article/38854/questions-swirl-around-fantasy-sports> (last visited March 27, 2025).

³⁹ See [State Regulators Take Closer Look At Fantasy Sports Operators \(sportsandlegal.com\)](https://www.sportsandlegal.com/state-regulators-take-closer-look-at-fantasy-sports-operators) (last visited March 27, 2025).

⁴⁰ See <https://gaming.nv.gov/gaming/commission/> (last visited April 1, 2025).

⁴¹ See Memorandum from J. Brin Gibson, Bureau Chief of Gaming and Government Affairs, and Jetan D. Bhurud, Head of Complex Litigation, to A.G. Burnett, Chairman, Nevada Gaming Control Board; Terry Johnson, Member, Nevada Gaming Control Board; Shawn Reid, Member, Nevada Gaming Control Board (Oct. 16, 2015) (on file with the Senate Regulated Industries Committee).

players' performance in specific sporting events is converted into "fantasy points" such that each actual player is assigned a specific score. An owner will then receive a total score that is determined by compiling the individual scores of each player in the owner's lineup. Thus, although the owners select lineups, once the lineup has been selected-----at least in the context of daily fantasy sports-----the owners have basically no ability to control the outcome of the simulated games. [Memorandum footnote 2: Given that lineups on some sites do not "lock" until the start of each individual game, the owners have until the tipoff of each individual game to set each particular lineup spot.]

Specifically, the owners of the simulated teams have no ability to control how many points their simulated teams receive from an actual player's performance. The actual players in the actual games control their own performance. As a result, after an owner places a bet and sets a final lineup, the owner has no ability to influence the outcome of a simulated game. At that point, the owner waits to see what happens based upon the performance of the actual players selected.

Player Selection

The three most common methods of player selection in fantasy sports are (1) a snake draft; (2) an auction draft; and (3) a salary-cap draft. [Memorandum footnote omitted.] In a snake draft, owners take turns drafting actual players for their simulated teams. In an auction draft, each owner has a maximum budget to use to bid for players. Competing owners, however, cannot select the same actual players for their simulated teams as other owners. Daily fantasy sports do not generally utilize a snake draft or an auction draft.

In a salary-cap draft, just like in an auction draft, each owner has a maximum budget. Unlike in an auction draft, however, the owners do not bid against each other. Instead, each actual player has a set fantasy salary. Although (with a few exceptions) [Memorandum footnote 4: For example, most sites require owners to select actual players from at least three different actual teams.], the owners can select any actual player for their teams, the owners cannot exceed their maximum budget. In this format, generally speaking, competing owners can select the same actual players for their simulated teams as other owners.

Types of Simulated Games

Although there are many different types of simulated games offered across the different daily fantasy websites, the simulated games can generally be divided into (1) head-to-head; and (2) tournaments. In head-to-head simulated games, one owner competes against another owner. The owner with the highest total score will win the entire payout pool. Tournaments are simulated games that involve more than two owners.

Prohibitions for Commission Employees and Commissioners

Commissioners are public officers, and employees are public employees, subject to the Code of Ethics for Public Officers and Employees set forth in part III of ch. 112, F.S., (Code of Ethics). Commissioners and employees are also governed by standards of conduct and provisions limiting ex parte communications, as provided in the bill, similar to the standards applicable to commissioners serving on the Public Service Commission.

For a period of two years immediately preceding appointment to, or employment with, the commission, and while appointed or employed with the commission, a person may not:

- Hold a permit or license issued under ch. 550, F.S., (Pari-mutuel Wagering), or a license issued under ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling); be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), F.S.,⁴² of such permitholder or licensee;
- Be an officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; be a contractor or subcontractor of such tribe, or an entity employed, licensed, or contracted by such tribe; or be an ultimate equitable owner, as defined in s. 550.002(37), F.S., of such entity;
- Be or have been, a member of the Legislature;
- Be a registered lobbyist for the executive or legislative branch, except while a commissioner when officially representing the commission; or
- Be a bingo game operator or an employee of a bingo game operator;

Persons who fail to meet or violate the above requirements are ineligible for appointment to or employment with the commission, or if, within the two years immediately preceding such appointment or employment, he or she has solicited or accepted employment with; acquired any direct or indirect interest in; has any direct or indirect business association, partnership, or financial relationship with; or is a relative of, any person or entity who is:

- An applicant, licensee, or registrant with the commission or the Division of Pari-mutuel Wagering (DPMW) in the DBPR;
- An officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state;
- A contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or
- An ultimate equitable owner, as defined in s. 550.002(37), F.S., of such entity.

The term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

A person who is ineligible for employment with the commission due to being a relative of one of the persons described above may submit a waiver request to the commission for the person to be considered eligible for employment. Waiver requests must be considered on a case-by-case basis, and the commission must approve or deny each request. If the commission approves the request, the person is eligible for employment with the commission. The waiver procedure does not apply to candidates for appointment to the commission.

⁴² Section 550.002, F.S., defines the term “ultimate equitable owner” to mean “a natural person who, directly or indirectly, owns or controls five percent or more of an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such person owns or controls such ownership through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.”

A person is ineligible for employment with the commission if he or she were:

- Convicted or found guilty of, or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a felony within five years of the date of application;
- Convicted or found guilty of, or pled nolo contendere to, regardless of adjudication, in any jurisdiction, a misdemeanor within five years of the date of application which the commission determines bears a close relationship to the duties and responsibilities of the position for which employment is sought; or
- Dismissed from prior employment for gross misconduct or incompetence or intentionally making a false statement concerning a material fact in connection with the application for employment to the commission.

If an employee of the commission is charged with a felony while employed by the commission, the commission must suspend the employee, with or without pay, and terminate employment with the commission upon conviction. If an employee is charged with a misdemeanor while employed, the commission must suspend the employee, with or without pay, and may terminate employment upon conviction if the commission determines that the offense bears a close relationship to the duties and responsibilities of the position held with the commission.

A commissioner or an employee must notify the commission within three calendar days of arrest for any offense. In addition, a commissioner or an employee must provide detailed written notice of the circumstances to the commission if the member or employee is indicted, charged with, convicted of, pleads guilty or nolo contendere to, or forfeits bail for:

- A misdemeanor involving gambling, dishonesty, theft, or fraud;
- A violation of any law in any state, or a law of the United States or any other jurisdiction, involving gambling, dishonesty, theft, or fraud which would constitute a misdemeanor in Florida; or
- A felony under the laws of Florida or any other state, the United States, or any other jurisdiction.

State Preemption

There are two ways that a local enactment can be inconsistent with state law and therefore unconstitutional. First, a local government cannot legislate in a field if the subject area has been preempted to the state. Second, in a field where both the state and local government can legislate concurrently, a local government cannot enact an ordinance that directly conflicts with the state statute.⁴³

State law recognizes two types of state preemption: express and implied. Express preemption requires a specific legislative statement of intent to preempt a specific area of law; it cannot be implied or inferred.⁴⁴ In contrast, implied preemption exists if the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy

⁴³ *Orange County v. Singh*, 268 So. 3d 668, 673 (Fla. 2019) (citing *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309, 314 (Fla. 2008)); see also James Wolf & Sarah Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 FLA. BAR J. 92 (2009), available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited March 27, 2025).

⁴⁴ *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Brevard, Inc.*, 3 So. 3d at 1018.

reasons exist for finding such an area to be preempted by the Legislature.⁴⁵ Courts determining the validity of local government ordinances enacted in the face of state preemption, whether express or implied, have found such ordinances to be null and void.⁴⁶

III. Effect of Proposed Changes:

Section 1 amends s. 16.71, F.S., relating to the Florida Gaming Control Commission (commission), to remove the requirement that members of the commission be appointed by January 1, 2022, and the requirement that the Governor shall consider appointees based on racial, ethnic, and gender diversity. The bill also removes language that directed the Governor to appoint one of the initial members as the initial chair and the initial vice chair.

Section 2 amends s. 16.713, F.S., to prohibit a person, for the two years immediately preceding the date of appointment to or employment with the commission and while appointed to or employed with the commission from being an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.

Section 3 amends s. 16.715, F.S., to revise the restrictions on Commissioners and commission employees that prohibit certain typers of employment immediately before and two years after employment with the commission. Specifically, the bill prohibits a person while employed, and for two years after service as a commissioner or for two years after employment with the commission, a commissioner or commission employee may not be an employee, an associate, an owner, or a contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.

Additionally, this section of the bill prohibits, while employed, and for two years after service as a commissioner or for two years after employment with the commission, a commissioner, an employee, or a *relative* living in the same household as a commissioner or an employee may not be an employee, an associate, an owner, or a contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.

Further, this section of the bill prohibits the executive director, or an employee of the commission, for the two years immediately following the date of resignation or termination from the commission from being an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.

Section 4 amends s. 546.10, F.S., relating to amusement games or machines, to provide a procedure that would allow a veterans' service organization that has been granted a federal

⁴⁵ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).

⁴⁶ *See, e.g., National Rifle Association of America, Inc. v. City of South Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002) (concluding that a City of South Miami local government ordinance, which purported to provide safety standards for firearms, was null and void because the Legislature expressly preempted the entire field of firearm and ammunition regulation when it enacted s. 790.33, F.S.).

charter under Title 36, U.S.C, or a division, a department, a post, or a chapter of such organization, for which an alcoholic beverage license has been issued that is in doubt about whether a machine meets the definition of an amusement machine under s. 546.10, F.S., to petition the commission for a declaratory statement under s. 120.565, F.S., on whether the operation of the game or machine would be authorized under s. 546.10, F.S., or ch. 489, F.S., prior to purchasing or installing a game or machine on the premises.

This section of the bill provides that a game or machine awaiting a declaratory statement from the commission may not be purchased or installed until the declaratory statement is issued. Additionally, this section, creates a procedure that would allow the veterans' organization that is in doubt about the legality of a game or machine, currently on the premises, to petition the commission for a declaratory statement pursuant to s. 120.565, F.S., on whether the operation of the game or machine would be authorized under s. 546.10, F.S., or ch. 849, F.S. If the game, machine, premises, or organization is the subject of an ongoing criminal investigation, the organization may not petition the commission for a declaratory statement under this subsection.

The bill provides that:

- The commission must issue a declaratory statement within 60 days after receiving a petition.
- The commission may not deny a validly requested petition.
- Petitions made under this subsection must provide enough information for the commission to issue the declaratory statement and must be accompanied by the exact specifications for the type of game or machine that the organization will purchase or install or currently has on the premises.
- The declaratory statement is valid only for the game or machine for which it is requested and is invalid if the specifications for the game or machine have changed.
- The declaratory statement is binding on the commission and can be introduced in any subsequent proceedings as evidence of a good faith effort to comply with s. 546.10, F.S., or ch. 849, F.S.
- This section of the bill does not prevent the commission or any other criminal justice agency from detecting, apprehending, and arresting a person for any alleged crimes of this state.
- An owner or operator is not required to request a declaratory statement in order to operate.

Section 5 amends s. 551.104, F.S., relating to a license to conduct slot machine gaming, to remove the following references “including minority vendors” “minority residents” and “minority contractors.” The bill deletes the requirement that each slot machine licensee must provide an annual report to the commission containing information indicating compliance with the contracting with minority persons provisions.

Section 6 amends s. 838.12, F.S., relating to bribery in athletic contests, to provide that “a person who stakes, bets, or wagers any money or other thing of value upon the result of any professional or amateur game, contest, match, race, or sport with knowledge that the results of such professional or amateur game, contest, match, race, or sport are prearranged or predetermined commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.”

Section 7 amends s. 843.08, F.S., relating to false personation, to provide that a person who falsely assumes or pretends to be, and acts as any personnel or representative of the commission, commits a third-degree felony.⁴⁷

Under current law, the false personation offense occurs when a person impersonates and acts as a firefighter, a sheriff, a Florida Highway Patrol officer, a Fish and Wildlife Conservation Commission officer, a Department of Environmental Protection officer, a Department of Financial Services officer, any personnel or representative of the Division of Investigative and Forensic Services, a Department of Corrections officer, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, any personnel or representative of the Department of Law Enforcement, certain federal law enforcement officers, and others.⁴⁸

If the false personation occurs during the course of the commission of a felony, the violator commits a felony of the second degree (up to 15 years/\$10,000 fine).⁴⁹

Section 8 amends s. 849.01, F.S., relating to the keeping of gambling houses, to increase the penalty for that offense from a second degree misdemeanor (up to 60 days/\$500 fine)⁵⁰ to a third degree felony (up to five years/\$5,000 fine).⁵¹, ⁵² Current law provides, in part, that the keeping of a gambling house includes any person, servant, clerk, or agent who:

[H]as, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever

Section 9 amends s. 849.02, F.S., relating to agents or employees keeping a gambling house, to create a tier for violators based on the frequency of offenses, providing that:

- For a first offense, a misdemeanor of the first degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.
- For a second offense, a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

⁴⁷ Section 775.082, F.S., provides a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides a felony of the third degree is punishable by a fine not to exceed \$5,000. Under s. 775.084, F.S., a habitual felony offender is subject to enhanced penalties.

⁴⁸ See s. 843.08, F.S.

⁴⁹ Section 775.082, F.S., provides a felony of the second degree is punishable by a term of imprisonment not to exceed 15 years. Section 775.083, F.S., provides a felony of the second degree is punishable by a fine not to exceed \$10,000. Under s. 775.084, F.S., a habitual felony offender is subject to enhanced penalties.

⁵⁰ Section 775.082, F.S., provides a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides a misdemeanor of the second degree is punishable by a fine not to exceed \$500. The enhanced penalties for this violation increase to imprisonment not to exceed five years and a fine not to exceed \$5,000.

⁵¹ Section 775.082, F.S., provides a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides a felony of the third degree is punishable by a fine not to exceed \$5,000.

⁵² Section 775.082, F.S., provides a felony of the second degree is punishable by a term of imprisonment not to exceed 15 years. Section 775.083, F.S., provides a felony of the second degree is punishable by a fine not to exceed \$10,000. Under s. 775.084, F.S., a habitual felony offender is subject to enhanced penalties.

- For a third or subsequent offense, a felony of the second degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

Section 10 amends s. 849.03, F.S., relating to renting a house for gambling purposes, to provide that a person who knowingly rents to another a house, room, booth, tent, shelter or place for the purpose of gaming commits:

- For a first offense, a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.
- For a second or subsequent violation, a felony of the second degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

Section 11 amends s. 849.08, F.S., relating to gambling, to provide a definition for the terms “Internet gambling” and “Internet sports wagering” along with associated penalties.

- “Internet gambling” means “to play or engage in any game in which money or other thing of value is awarded based on chance, regardless of any application of skill, that is available on the Internet and accessible on a mobile device, computer terminal, or other similar access device and simulates casino-style gaming, including, but not limited to, slot machines, video poker, and table games.”
- “Internet sports wagering” means “to stake, bet, or wager any money or other thing of value upon the result of any trial or contest of skill, speed, power, or endurance of human or beast that is available on the Internet and accessible on a mobile device, computer terminal, or other similar access device.” The term does not include fantasy sports contests.

The bill also provides criminal penalties for a person who plays or engages in Internet gaming (a misdemeanor of the second degree). Additionally, a person who plays or engages in Internet sports wagering commits:

- For a first offense, a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.
- For a second or subsequent violation, a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

A person commits a third degree felony if they are a person who operates, conducts, or promotes Internet gambling or Internet sports wagering, or receives in any manner whatsoever any money or other thing of value offered for the purpose of Internet gambling or Internet sports wagering, or whoever knowingly becomes the custodian or depositary of any money or other thing of value so offered, or whoever aids, assists, abets, or influences in any manner in any of such acts. This section of the bill does not apply to people participating in authorized gaming activities under s. 285.710(13), F.S., or any gaming compact.

Section 12 amends s. 849.086, F.S., relating to authorized cardrooms, to provide that prohibited activities include: a person who manipulates or attempts to manipulate the playing cards, outcome, or payoff of a card game in a licensed cardroom by physical tampering or by use of any object, instrument, or device, whether mechanical, electrical, magnetic, or involving other means, commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

Section 13 creates s. 849.0932, F.S., relating to fantasy sports contests, to provide new regulations regarding fantasy sports contests, including what constitutes a fantasy sports contest, and provide definitions for the following terms: Confidential information; Contest operator; Contest participant; Entry fee; Fantasy sports contest; and Noncommercial contest operator. Total entry fees, collected, maintained, and distributed by a noncommercial contest operator for a fantasy sports contest may not exceed \$1,500 per season or a total of \$10,000 per calendar year and that all entry fees must be returned to the contest participants in the form of prizes.

The bill provides that the commission must investigate violations and refer them to the Attorney General or the state attorney. The bill provides civil and criminal penalties for violations including:

- An operator or owner of any website, platform, or application that offers fantasy sports contests in violation of this section is subject to a fine of up to \$100,000 per violation.
- A person who willfully and knowingly violates this section commits first degree misdemeanor (imprisonment up to one year and a fine up to \$1,000).
- An operator or owner of any application, platform, or website that offers fantasy sports contests in violation of this section commits a third degree felony (imprisonment up to five years and a fine up to \$5,000).

Section 14 amends s. 849.11, F.S., relating to games of chance, to provide that a person who plays any game of chance by lot or with dice, cards, numbers, hazards or any other gambling device, in person or by the use, at least in part, of the Internet, commits a misdemeanor of the second degree. The bill makes it a third degree felony to:

- Setup up, operate, conduct, promote, or receive in any manner whatsoever any money or other thing of value offered for the purpose of conducting games of chance by lot;
- Knowingly become the custodian or depositary of any money or other thing of value so offered; or
- Aid, assist, abet, or influence in any manner in any of such acts.

Section 15 amends s. 849.13, F.S., relating to second convictions, to revise the first-degree misdemeanor penalty for subsequent offenses of lottery convictions to specify that second or subsequent violations for which there is no penalty specified must have the offense reclassified to an offense of the next higher degree, instead of an automatic first-degree misdemeanor, and adds penalties for habitual offenders.

The bill also specifies that for purposes of sentencing, a felony offense that is reclassified under this provision is ranked one level above the ranking under s. 921.0022, F.S., or s. 921.0023, F.S., of the felony offense committed.

Section 16 amends s. 849.14, F.S., relating to unlawful betting on games of skill, to revise the third-degree felony for anyone who stakes, bets, or wagers any money or other thing of value upon the result of any trial or contest of skill, to add penalties for habitual offenders provided in s. 775.084, F.S.

Section 17 amends s. 849.15, F.S., relating to the prohibited manufacture, sale, or possession of slot machines or devices, to provide a definition for a “conviction” to mean “a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea

of nolo contendere is entered.” The bill also provides a definition for “person of authority” to mean a person who, at any business, establishment, premises, or other location at which a slot machine or device is offered for play, has:

- Actual authority to act on behalf of the business, establishment, premises, or other location where a slot machine or device is offered for play; or
- Any ownership interest in the business, establishment, premises, or other location. The term “ownership interest” includes being an officer, director, or managing member of the business, establishment, premises, or other location.

The bill also provides the following criminal penalties:

- A person who violates the prohibitions on slot machines commits a first degree misdemeanor (imprisonment up to one year and a fine up to \$1,000).
- A person commits a third degree felony (imprisonment up to five years and a fine up to \$5,000), if he or she violates the prohibitions on slot machines and:
 - At the time of the violation, the person was a person of authority; or
 - The person has one prior conviction for a violation of this section.
- A person commits a second degree felony (imprisonment up to 15 years and a fine up to \$10,000), if he or she violates the prohibitions on slot machines and:
 - At the time of the violation, the person was a person of authority; and
 - The violation involves five or more slot machines or devices; or
 - The person has two or more prior convictions for a violation of this section.

Further, this section provides that “all shipments of legal gaming devices, including legal slot machines, into Indian lands located within this state must be deemed legal shipments thereof provided that such Indian lands are held in federal trust for the benefit of a federally recognized Indian tribe that is a party to a tribal-state compact with the state pursuant to the federal Indian Gaming Regulatory Act of 1988, 18 U.S.C. ss. 1166-1168 and 25 U.S.C. ss. 2701 et seq.”

Section 18 creates s. 849.155, F.S., relating to trafficking in slot machines or devices or parts thereof. The bill makes it a:

- First degree felony, (imprisonment up to 30 years and a fine up to \$10,000), to knowingly sell, purchase, manufacture, transport, deliver, or bring into Florida more than 15 slot machines or devices or any part thereof; and includes:
 - An additional fine of \$100,000, if the quantity of slot machines or devices or any part thereof involved is more than 15 slot machines or devices or any part thereof, but less than 25 slot machines or devices or any part thereof.
 - An additional fine of \$250,000, if the quantity of slot machines or devices or any part thereof involved is 25 slot machines or devices or any part thereof or more, but less than 50 slot machines or devices or any part thereof.
 - An additional fine of \$500,000, if the quantity of slot machines or devices or any part thereof involved is 50 slot machines or devices or any part thereof or more.

The bill provides an exemption from criminal and financial penalties if such person is trafficking slot machines into any Florida county that has authorized slot machine gaming. Such machines are to be deemed legal shipments, provided that the destination of such shipments is an eligible facility as defined in s. 551.102, F.S., or the facility of a slot machine manufacturer or slot machine distributor as provided in s. 551.109(2)(a), F.S. All shipments of legal gaming devices,

including legal slot machines, into Indian lands located within the state shall be deemed legal shipments, so long as the Indian lands are held in federal trust for the benefit of a federally recognized compact with the state.

The bill requires all fines imposed and collected pursuant these provisions be deposited into the Pari-mutuel Wagering Trust Fund and authorizes such funds to be used for the enforcement of chs. 546, 550, 551, and 849, F.S., by the commission.

Section 19 creates s. 849.157, F.S., relating to making a false or misleading statement regarding the legality of slot machines to facilitate sale. The bill makes it a:

- Third degree felony (imprisonment up to five years and a fine up to \$5,000), punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., to knowingly and willfully:
 - Make a materially false or misleading statement regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration; or
 - Disseminate false or misleading information regarding the legality of a slot machine or device for the purpose of facilitating the sale or delivery of a slot machine or device for any money or other valuable consideration.
- Second degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S., when such a violation involves the sale or delivery, or attempted sale or delivery, of five or more slot machines or devices.

Section 20 repeals s. 849.23, F.S., relating to criminal penalties for the possession, manufacturing, or sale of prohibited slot machines.

Section 21 creates s. 849.47, F.S., relating to the transportation of persons to facilitate illegal gambling, define the term “illegal gambling” to mean “any criminal violation of chs. 546, 550, 551, or 849, F.S., that occurs at any business, establishment, premises, or other location.”

Under the bill, a person who knowingly and willfully transports, or procures the transportation of five or more other persons into or within this state when he or she knows or reasonably should know that such transportation is for the purpose of facilitating illegal gambling commits a first-degree misdemeanor (a fine up to \$1,000).

A person who transports, or procures the transportation of, a minor or a person 65 years of age or older commits a third-degree felony (imprisonment up to five years and a fine up to \$5,000).

A person who transports, or procures the transportation of, 12 or more persons commits a third-degree felony (imprisonment up to five years and a fine up to \$5,000).

Section 22 creates s. 849.48, F.S., relating to prohibited gambling or gaming advertisements. Except as otherwise specifically authorized by law, a person may not:

- Knowingly and intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in Florida, in any manner, whether in person or by the use, at least in part, of the internet, any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice for the purpose of promoting or facilitating illegal gambling; and

- Set up any type or plate for any type of advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice when he or she knows or reasonably should know that such material will be used for the purpose of promoting or facilitating illegal gambling.

The bill provides that for a first offense, violators of the above prohibitions commit a first-degree misdemeanor. For a second or subsequent offense, violators of the above prohibitions commit a third-degree felony.

Under the bill, the printing or producing of any advertisement, circular, bill, poster, pamphlet, list, schedule, announcement, or notice to be used for the purpose of promoting or facilitating gambling conducted in any other state or nation, outside of Florida, where such gambling is not prohibited.

The bill defines the term “illegal gambling” to mean any criminal violation of chs. 546, 550, 551, or 849, F.S., that occurs at any business, establishment, premises, or other location.

Section 23 creates s. 849.49, F.S., relating to preemption of gaming regulations, to provide that a Florida county, municipality, or other political subdivision of the state may not enact or enforce any ordinance or local rule relating to gaming, gambling, lotteries, or any activities described in s. 546.10, F.S., or ch. 849, F.S., except as otherwise expressly provided by the State Constitution, general law, or special law.

Section 24 amends s. 903.046, F.S., relating to the purpose of and criteria for bail determination, to revise considerations to be considered by a court for determining bail or release of persons arrested for crimes involving controlled substances, a slot machine, or illegal gambling or gaming, including the amount of currency seized that is connected to a violation of chs. 546, 550, 551, or 849, F.S., relating to amusement facilities, pari-mutuel wagering, slot machines, and gambling, respectively.

Section 25 amends s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code, to revise the penalties for offenses in the ranking chart for specified gaming offenses, which incorporate changes being made by the bill.

The offense severity ranking chart must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The offense severity ranking chart has 10 offense levels, ranked from least severe, which are Level 1 offenses, to most severe, which are Level 10 offenses, and each felony offense is assigned to a level according to the severity of the offense.⁵³

Section 26 amends s. 772.102, F.S., to conform definitions relating to civil remedies for criminal practices, to remove references to s. 849.23, F.S., which is repealed by the bill.

Section 27 amends s. 895.02, F.S., to conform definitions relating to offenses concerning racketeering and illegal debts, to remove references to s. 849.23, F.S., which is repealed by the bill.

⁵³ See s. 921.0022, F.S.

Section 28 provides that the bill takes effect October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

In **Section 22** of the bill, there may be some first amendment issues regarding what a person may not “set up” in the course of business.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who violate the gambling laws will be subject to increased penalties.

Such violators may be impacted by the information that must be considered by a court for determining bail or release of persons arrested for crimes involving controlled substances, a slot machine, or illegal gambling or gaming, including the amount of currency seized that is connected to a violation of the gambling laws.

C. Government Sector Impact:

The fiscal impact to state and local government is indeterminate. The bill increases and creates new criminal penalties for violations relating to illegal gambling. This may create a positive fiscal impact to the state and local governmental entities that receive proceeds from related fines. This bill may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) due to expanding the crimes eligible for

enhancements which may lead to an increased number of offenders receiving enhanced sentences.

The Criminal Justice Impact Conference (conference), which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet adopted an estimate for this bill. However, the conference evaluated a similar bill CS/HB 189 on February 12, 2024, and the conference adopted the estimate of “Positive Indeterminate,”⁵⁴ (i.e., an unquantifiable positive prison bed impact).

No anticipated negative fiscal impact to the Florida Gaming Control Commission (commission).⁵⁵ The workload associated with issuing declaratory statements required in the bill can be handled with existing resources. The commission may experience an increase in revenues resulting from increased confiscation of contraband under the bill. The bill also requires all fines imposed and collected for violations of trafficking in slot machines or devices to be deposited into the Pari-mutuel Wagering Trust Fund and authorizes the use of such funds by the commission for the enforcement of chs. 546, 550, 551, and 849, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.71, 16.713, 16.715, 546.10, 551.104, 838.12, 843.08, 849.01, 849.02, 849.03, 849.08, 849.086, 849.11, 849.13, 849.14, 849.15, 903.046, 921.0022, 772.102, and 895.02.

This bill creates the following sections of the Florida Statutes: 849.0932, 849.155, 849.157, 849.47, 849.48, and 849.49.

This bill repeals section 849.23 of the Florida Statutes.

IX. 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 on March 27, 2025:

The committee substitute:

⁵⁴ See the conference’s Narrative Analysis of CS/HB 189 at <http://www.edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSHB189.pdf> (last visited April 3, 2025).

⁵⁵ See Florida Gaming Control Commission, *2025 Agency Legislative Bill Analysis for SB 1404* at 8 (Feb. 24, 2025) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

- Amends the prohibitions on employment for certain employees and commissioners of the commission to not allow a former employee or commissioner to be an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.
- Amends the types of employment positions that are ineligible for employment with the commission within the two years immediately preceding such employment, to include any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.
- Amends the commission's standards of conduct by prohibiting a former employee or commissioner from being an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.
- Amends the commission's standards of conduct by prohibiting a former employee's or commissioner's relative living in the same household, from being an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.
- Prohibits the executive director, or an employee of the commission, for the two years immediately following the date of resignation or termination from the commission from being an employee, associate, owner, or contractor for any person or entity that conducts or facilitates an activity regulated, enforced, or investigated by the commission, including fantasy sports contests and other betting activities.
- Creates a procedure that would allow any veterans' service organization granted a federal charter under Title 36, U.S.C, or a division, a department, a post, or a chapter of such organization, for which an alcoholic beverage license has been issued that is in doubt about whether a machine meets the definition of an amusement machine under s. 546.10, F.S. , to petition the commission for a declaratory statement under s. 120.565, F.S., on whether the operation of the game or machine would be authorized under this section or ch. 489, F.S.
- Provides that a game or machine awaiting a declaratory statement from the commission may not be purchased or installed until the declaratory statement is issued.
- Creates a procedure that would allow the veterans' organization that is in doubt about the legality of a game or machine, currently on the premises, to petition the commission for a declaratory statement pursuant to s. 120.565, F.S., on whether the operation of the game or machine would be authorized under s. 546.10, F.S., or ch. 849, F.S. If the game, machine, premises, or organization is the subject of an ongoing criminal investigation, the organization may not petition the commission for a declaratory statement under this subsection.
- Provides that the commission shall issue a declaratory statement within 60 days after receiving a petition. The commission may not deny a petition.
- Provides that petitions made under this subsection must provide enough information for the commission to issue the declaratory statement and must be accompanied by the exact specifications for the type of game or machine that the organization will

purchase or install or currently has on the premises. The declaratory statement is valid only for the game or machine for which it is requested and is invalid if the specifications for the game or machine have changed.

- Provides the declaratory statement is binding on the commission and can be introduced in any subsequent proceedings as evidence of a good faith effort to comply with s. 546.10, F.S. or ch. 849, F.S.
- Does not prevent the commission or any other criminal justice agency from detecting, apprehending, and arresting a person for any alleged crimes of this state.
- Does not require an owner or operator to request a declaratory statement in order to operate pursuant to this section.
- Creates new regulations regarding fantasy sports contests, including what constitutes a fantasy sports contest. The amendment creates definitions for the following terms: Confidential information; Contest operator; Contest participant; Entry fee; Fantasy sports contest; Noncommercial contest operator.
- Provides that the commission shall investigate violations of this section and refer them to the Attorney General or the state attorney.
- Provides civil and criminal penalties for violations of this section of the bill.

B. Amendments:

None.