

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 Committee on Regulated Industries

BILL: SB 204

INTRODUCER: Senator Bradley

SUBJECT: Gaming

DATE: January 26, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Baird	Imhof	RI	<u>Pre-meeting</u>
2.		AEG	
3.		RC	

I. Summary:

SB 204 specifies a process for certain veterans' service organizations (VSOs) to ask the Florida Gaming Control Commission (FGCC), if a machine meets the definition of an amusement game or machine under Florida law, before installing a game or machine on their premises or if they currently have a machine or game on their premise.

The process only applies to VSOs that have been granted a federal charter under Title 36, U.S.C., or to a division, department, post, or chapter of such organization, for which an alcoholic beverage license has been issued.

SB 204 allows the qualifying VSOs to petition the FGCC before they purchase an amusement game or machine if in doubt whether the game or machine meets the definition and is authorized under s. 546.10, F.S., and the VSO may also petition the FGCC if there is a game or machine currently on the premises of the VSO.

SB 204 prohibits VSOs from petitioning the FGCC for a declaratory statement if they are the subject of an ongoing criminal investigation or if the game or machine is the subject of an ongoing criminal investigation.

The FGCC shall issue a declaratory statement within 60 days after receiving a petition requesting such statement. The FGCC may not deny a petition that is validly requested. VSOs are not required to request or obtain a declaratory statement in order to operate if lawful under s. 546.10, F.S.

SB 204 also defines the following terms:

- “Ownership interest” to mean a person who is an officer, a director, or a managing member of any business, establishment, premises, or other location; and

- “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 to play has:
 - Actual authority to act on behalf of the business, establishment, premises, or other location; or
 - Any ownership interest in the business, establishment, premises or other location.

SB 204 elevates the penalty for a person of authority at the time of the violation to a felony of the third degree for violations of s. 849.15, F.S.

Finally, SB 204 provides a legal “safe harbor” for all shipments of legal gaming devices, including legal slot machines, to Indian lands located within this state. The shipments are to be deemed legal shipments, 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 IGRA.

The bill provides an effective date of July 1, 2026.

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 facilities;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 (the Act);¹¹ and

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 The FGCC, *Annual Report Fiscal Year 2023-2024* (Annual Report), at <https://flgaming.gov/pmw/annual-reports/docs/2023-2024-FGCC-Annual-Report.pdf> (last visited Jan 26, 2026).

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.

- 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

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 FGCC.²¹

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 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.

In addition to the enhanced authority of the Office of Statewide Prosecution, the FGCC was created²² within the Department of Legal Affairs. The FGCC 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 FGCC 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 FGCC's regulatory and executive functions.
- 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 FGCC, information that is reported by sports governing bodies or other parties to the FGCC 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 FGCC 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 DPMW and the procedures used by that division to implement and enforce the law.

²² Section 16.71, F.S.

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

- 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 FGCC, 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.

Division of Gaming Enforcement

Section 16.711, F.S., sets forth the duties of the DGE within the FGCC.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), and any rule adopted pursuant thereto, and any law of this state.²⁶

The 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

²⁴ For a summary of DGE investigations and actions in Fiscal Year 2022-2023, see Annual Report, *supra* n. 11 at p.5.

²⁵ Section 16.711(2), F.S.

²⁶ Section 16.711(3), F.S.

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 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 FGCC also have access to, and the right to inspect, premises licensed by the FGCC, 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 FGCC.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 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 FGCC’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 FGCC with any information relevant to any investigation conducted as described above, and the FGCC must reimburse any agency for the actual cost of providing any such assistance.³¹

Veterans’ Service Organizations

VSOs that are granted a federal charter under Title 36, U.S.C., are groups that have been formally recognized by Congress. While recognized federally, these groups are private, non-profit entities that must maintain a specific standard of service and submit an annual report to Congress. Examples of these VSOs are groups like The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the American Veterans, and Paralyzed Veterans of America. Some VSOs chose to operate facilities with a valid alcoholic beverage license.

If certain requirements are met, alcohol licenses for VSOs are issued by the Division of Alcoholic Beverages and Tobacco within the DBPR.

Under Florida law, VSOs operating with alcoholic beverage licenses receive certain gaming privileges; notably, s. 546.10(6)(a), F.S., provides specific exemptions regarding amusement games or machines. These and similar provisions exempt licensed VSOs from certain limitations

²⁷ *Id.*

²⁸ *Id.*

²⁹ Section 16.711(4), F.S.

³⁰ *Id.*

³¹ Section 16.711(5), F.S.

on amusement machine operations, authorizing them to facilitate gaming activities that support their charitable missions.

Slot Machine or Amusement Machine?

At any location other than licensed pari-mutuel facilities³² and Seminole tribe facilities³³, it is a violation to “manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to sell, rent, lease, let on shares, lend or give away, or permit the operation of any slot machine or device or any part thereof.”³⁴

The legal community in general has spent decades trying to find the right balance in defining and differentiating a slot machine from an amusement machine. Because of this, amusement games or machines are primarily governed by a tension between the Act and Florida’s prohibition on slot machines.

Florida law prohibits slot machines in VSOs but allows certain types of amusement machines or games.

In Florida, a slot machine is defined as a machine or device that:³⁵

- Is activated by inserting something of value (money, coin, account number, code, or other object or information);
- Is caused to operate or be operated by a user by application of skill, element of chance, or other outcome that is unpredictable to the user; and
- The user receives or is entitled to receive something of value or additional chances or rights to use the device or machine.

A person who violates the prohibitions³⁶ against manufacturing, selling, or possessing slot machines or devices commits a:³⁷

- Second degree misdemeanor upon a first conviction.³⁸
- First degree misdemeanor upon a second conviction.³⁹
- Third degree felony upon a third or subsequent conviction, and the person is deemed a “common offender.”⁴⁰

³² Section 32 of Art. X of the State Constitution, adopted pursuant to a 2004 initiative petition, authorized slot machines in licensed pari-mutuel facilities in Broward and Miami-Dade counties, if approved by county referendum.

³³ Florida allows only a few operators of slot machines; certain Seminole tribal facilities and eight pari-mutuel facilities located in Miami-Dade and Broward counties. The FGCC, *FAQ’s ‘Are slot machines legal in Florida?’*, available at <https://flgaming.gov/faq#:~:text=Are%20slot%20machines%20legal%20in%20certain%20Indian%20tribal%20facilities> (last visited Jan. 26, 2026).

³⁴ Section 849.15(1)(a), F.S.

³⁵ Section 849.16(1), F.S.

³⁶ Sections 849.15, F.S. – 849.22, F.S.

³⁷ Section 849.23, F.S.

³⁸ A second degree misdemeanor is punishable by up to 60 days in county jail and a \$500 fine. Sections 775.082 or 775.083, F.S.

³⁹ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 or 775.083, F.S.

⁴⁰ A third degree felony is punishable by up to five years in prison and a \$5,000 fine. Sections 775.082, 775.083, or 775.084, F.S.

There is a rebuttable presumption that a device, system, or network is a prohibited slot machine or device if it is used to display images of games of chance and is part of a scheme involving any payment or donation of money or its equivalent and awarding anything of value.⁴¹

In recent years, legal discussion has existed over slot machine and amusement machine distinctions including the “material element of chance” test; if a machine’s outcome can be influenced by factors outside the player’s immediate skill – such as a predetermined win/loss ratio or invisible game logic – the device is legally classified as a slot machine under s. 849.16, F.S.⁴²

Amusement Games or Machines

In 2015, the Legislature created s. 546.10, F.S., in an attempt to regulate the operation of skill-based amusement games or machines at specified locations to prevent expansion of casino-style gambling in the state.⁴³ To differentiate between slot machines, which are generally prohibited, and amusement machines there is a lengthy definition of what includes an amusement game or machine and what does not constitute an amusement game or machine.

An “amusement game or machine” is defined in s. 546.10(3)(a), F.S., as:

...a game or machine operated only for the bona fide entertainment of the general public which a person activates by inserting or using currency or a coin, card, coupon, slug, token, or similar device, and, *by the application of skill, with no material element of chance* inherent in the game or machine, the person playing or operating the game or machine controls the outcome of the game.

The term does not include:

- Any game or machine that uses mechanical slot reels, video depictions of slot machine reels or symbols, or video simulations or video representations of any other casino game, including, but not limited to, any banked or banking card game, poker, bingo, pull-tab, lotto, roulette, or craps.
- A game in which the player does not control the outcome of the game through skill or a game where the outcome is determined by factors not visible, known, or predictable to the player.
- A video poker game or any other game or machine that may be construed as a gambling device under the laws of this state.
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under 15 U.S.C. s. 1178.

Florida law further distinguishes amusement machines or games into three types of machines, Type A, Type B, and Type C.

⁴¹ Section 849.16(3), F.S.

⁴² See *Gator Coin II, Inc. v Dep’t Bus. & Prof'l Reg.*, 254 So. 3d 114 (Fla. 1st DCA 2018), where the “material element of chance” issue is discussed.

⁴³ See Ch. 2015-93 s. 1, Laws of Fla. (creating s. 546.10(2), F.S, effective July 1, 2015).

A Type A amusement game or machine is a game or machine that offers no prizes, or any other thing of value other than free replays so long as:

- The amusement game or machine can accumulate and react to no more than 15 such replays;
- The amusement game or machine can be discharged of accumulated replays only by reactivating the game or device for one additional play for each accumulated replay;
- The amusement game or machine cannot make a permanent record, directly or indirectly, of any free replay;
- The amusement game or machine does not entitle the player to receive anything of value other than a free replay;
- An unused free replay may not be exchanged for anything of value, including merchandise or a coupon or a point that may be redeemed for merchandise; and
- The amusement game or machine does not contain any device that awards a credit and contains a circuit, meter, or switch capable of removing and recording the removal of a credit if the award of a credit is dependent upon chance.⁴⁴

A Type B amusement game or machine is a game or machine that, upon activation and game play, entitles or enables a person to receive a coupon or a point that *may be redeemed onsite for merchandise* and the coupon or point:

- Has no value other than for redemption onsite for merchandise;
- The redemption value that a person receives for a single game played does not exceed the maximum value determined under s. 546.10(7), F.S. The maximum value was set at \$5.25 in 2016 and is adjusted annually by the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items by the Department of Revenue. The current maximum value is \$7.10.⁴⁵ However, a player may accumulate coupons or points to redeem onsite for a single item of merchandise that has a wholesale cost of not more than 100 times the maximum value, or for a prize consisting of more than one item, unit, or part, only if the aggregate wholesale cost of all items, units, or parts does not exceed 100 times the maximum value; and
- The redemption value that a person receives for playing multiple games simultaneously or competing against others in a multiplayer game does not exceed the maximum value.⁴⁶

A Type B amusement game or machine may only be operated at:

- A facility as defined in s. 721.05(17), F.S., that is under the control of a timeshare plan;
- A public lodging establishment or public food service establishment licensed pursuant to ch. 509, F.S.;
- The following premises, if the owner or operator of the premises has a current license issued by the DBPR pursuant to ch. 509, ch. 561, ch. 562, ch. 563, ch. 564, ch. 565, ch. 567, or ch. 568, of Florida Statutes;
- An arcade amusement center;
- A bowling center, as defined in s. 849.141, F.S.; or
- A truck stop.⁴⁷

⁴⁴ Section 546.10(5)(a), F.S.

⁴⁵ See https://floridarevenue.com/Forms_library/current/brochure/gt800020.pdf (last visited January 25, 2026).

⁴⁶ Section 546.10(5)(b), F.S.

⁴⁷ *Id.*

A Type C amusement game or machine is a game or machine that allows the player to manipulate a claw or similar device within an enclosure that entitles or enables a person to receive merchandise directly from the game or machine, if the wholesale cost of the merchandise does not exceed 10 times the maximum value determined under s. 546.10(7), F.S.

A type C amusement game or machine may only be operated at:

- A facility as defined in s. 721.05(17), F.S., that is under the control of a timeshare plan;
- An arcade amusement center;
- A bowling center, as defined in s. 849.141, F.S.;
- The premises of a retailer, as defined in s. 212.02, F.S.;
- A public lodging establishment or public food service establishment licensed pursuant to ch. 509, F.S.;
- A truck stop; or
- The premises of a veterans' service organization granted a federal charter under Title 36, U.S.C., or a division, department, post, or chapter of such organization, for which an alcoholic beverage license has been issued.⁴⁸

Regulatory Efforts by the FGCC

The FGCC employs approximately 18 sworn law enforcement officers.⁴⁹ The FGCC reported seizing around \$14.47 million and over 6,700 slot machines in 2025, more than doubling its enforcement totals from the previous year.⁵⁰

One of the greatest challenges for the FGCC currently, is that often times, the penalties for the criminals do not raise to the level for local law enforcement and state attorneys/prosecutors to justify spending time and resources pursuing convictions of ch. 849, F.S., violations.

Chapter 120 Declaratory Statement Process

As a matter of general policy, a declaratory statement serves as an administrative tool designed to resolve regulatory uncertainty. Under the Florida Administrative Procedure Act, a declaratory statement is a formal mechanism that allows any “substantially affected person” to obtain an agency’s opinion regarding the applicability of a statutory provision, rule, or order to their specific set of circumstances.⁵¹

The petitioning party must state their particular circumstances with specificity and identify the exact law or regulation they believe applies to that situation.⁵² Upon receiving a petition, an agency is required to give notice of the filing in the Florida Administrative Register and must either issue the statement or deny the petition within 90 days.⁵³

⁴⁸ Section 546.10(5)(c), F.S.

⁴⁹ The FGCC, available at <https://flgaming.gov/enforcement> (last visited Jan. 26, 2026).

⁵⁰ Casino.Org, *Florida Gaming Regulator Doubles Down on Illegal Gambling Raids*, available at <https://www.casino.org/news/florida-gaming-regulator-doubles-down-on-illegal-gambling-raids/> (last visited Jan. 26, 2026).

⁵¹ Section 120.565(1), F.S.

⁵² Section 120.565(2), F.S.

⁵³ Section 120.565(3), F.S.

Once issued, a declaratory statement constitutes a “final agency action,” making it a legally binding interpretation that provides the petitioner with a definitive regulatory position upon which they can rely.⁵⁴

IGRA and Indian Tribes ability to Transport Slot Machines

Gambling on Indian lands is regulated by the Indian Gaming Regulatory Act of 1988 (IGRA), which generally preempts state law on tribal land.⁵⁵

Under the IGRA, gaming is categorized in three classes:

- **Class I** gaming means social games for minimal value or traditional forms of Indian gaming engaged in by individuals for tribal ceremonies or celebrations;
- **Class II** gaming includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, other games similar to bingo, and certain non-banked card games if not explicitly prohibited by the laws of the state and if played in conformity with state law; and
- **Class III** gaming includes all forms of gaming that are not Class I or Class II gaming, such as banked card games such as baccarat, chemin de fer, and blackjack (21), casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, slot machines, and pari-mutuel wagering.⁵⁶

Under the IGRA, Class III gaming is lawful on Indian lands only if conducted pursuant to a tribal-state compact that has been ratified by the state and approved by the United States Secretary of the Interior.⁵⁷

The Seminole Tribe of Florida is the only Indian tribe in Florida to have a legally binding compact recognized by the IGRA, and therefore is the only Indian tribe allowed to offer Class III gaming. The Miccosukee Tribe of Indians of Florida offers Class II type of gaming and is prohibited from offering Class III type of gaming, like slot machines.

Because shipments of slot machines for Indian casinos physically travel through the state and not exclusively on tribal lands, there is some potential ambiguity as to whether the general prohibition on transporting slot machines in s. 849.15, F.S., applies to devices destined for tribal lands.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 546.10, F.S., relating to amusement games or machines, by specifying a declaratory statement process regarding the legality of an amusement game or machine. The process only applies to VSOs that have been granted a federal charter under Title 36, U.S.C., or to a division, department, post, or chapter of such organization, for which an alcoholic beverage license has been issued.

⁵⁴ *Id.*

⁵⁵ See Pub. L. 100-497, 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701 *et seq.*

⁵⁶ See 25 U.S.C. s. 2703.

⁵⁷ 25 U.S.C. s. 2710(d).

The bill allows the qualifying VSOs to petition the FGCC before they purchase an amusement game or machine if in doubt whether the game or machine meets the definition in and is authorized under s. 546.10, F.S. The VSO may also petition the FGCC if there is a game or machine currently on the premises of the VSO.

The bill prohibits VSOs from petitioning the FGCC for a declaratory statement if they are the subject of an ongoing criminal investigation or if the game or machine is the subject of an ongoing criminal investigation.

The FGCC shall issue a declaratory statement within 60 days after receiving a petition requesting such statement. The FGCC may not deny a petition that is validly requested pursuant to this section and s. 120.565, F.S.

A petition made under this section must provide enough information for the FGCC to issue the declaratory statement and must be accompanied by the exact specifications for the type of game or machine which 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 been changed.

The bill provides that the declaratory statement is binding on the FGCC and may 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.

The bill does not prevent law enforcement from detecting, apprehending, or arresting a person for any alleged violation of the gaming statutes.

The bill does not require an owner or an operator of an amusement game or machine under this section to request or obtain a declaratory statement in order to operate, if lawful under s. 546.10, F.S.

Section 2 of the bill amends 849.15, F.S., regarding the manufacture, sale, and possession of slot machines, by defining the terms:

- “Ownership interest” to mean a person who is an officer, a director, or a managing member of any business, establishment, premises, or other location; and
- “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 to play has:
 - Actual authority to act on behalf of the business, establishment, premises, or other location; or
 - Any ownership interest in the business, establishment, premises or other location.

The bill also increases the penalty for a person of authority at the time of the violation to a felony of the third degree for violations of s. 849.15, F.S.

Finally, the bill provides a legal “safe harbor” for all shipments of legal gaming devices, including legal slot machines to Indian lands located within this state, deeming them legal shipments, 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 IGRA.

The bill provides an effective date of July 1, 2026.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 546.10 and 849.15 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
